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on pilotage

Hearings 1965  
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**ROYAL COMMISSION**

**ON**

**PILOTAGE**

**HEARINGS**

HELD AT

OTTAWA  
Ontario

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## ROYAL COMMISSION ON MARINE PILOTAGE

Proceedings of the hearing held  
within the Exchequer Court Build-  
ing, Ottawa, Ontario, on Thurs-  
day, the 7th day of January, 1965.

### THE COMMISSION:

The Honourable Mr. Justice Bernier -- Chairman  
Mr. Robert K. Smith -- Member  
Mr. Harold A. Renwick -- Member  
Mr. Gilbert Nadeau -- Secretary

### COMMISSION COUNSEL:

Mr. Maurice Jacques

### PRESENT:

Mr. J. Brisset, Q.C. -- for the Shipping Federation of Canada  
Mr. Marc Lalonde -- for the Federation of St. Lawrence River Pilots; Corporation of the Lower St. Lawrence Pilots; Corporation of the Montreal Harbour Pilots; Corporation of the Mid-St. Lawrence Pilots; Corporation of the St. Lawrence River and Seaway Pilots; Corporation of the Upper St. Lawrence Pilots  
Mr. R. Langlois -- for the Canadian Merchant Service Guild  
Mr. J.J. Mahoney -- for the Dominion Marine Association  
Mr. R. Macgillivray -- for the Department of Transport







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II

ARGUMENT

PAGE

Continuation of Argument as presented  
by Mr. Lalonde  
(and continuing throughout)

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--- On commencing at 10:00 a.m.

COMMISSIONER SMITH: My lord, before Mr. Lalonde commences his argument, I would like to put a question to him for clarification purposes in connection with his -- I think he described it as series 2 -- the proposition that the pilotage administration authority should be under public authorities.

Now, I would like to put to him an illustration, but I want to make it abundantly clear before I make the illustration that I have not discussed this with the Chairman or Mr. Renwick or anyone. The reason I make the illustration is for exploratory purposes to, perhaps, better understand the limits to which the proposition that Mr. Lalonde has suggested would go, and the confinements of it to quasi commercial or quasi governmental authority.

Now, this is what I have in mind and I would like to ask Mr. Lalonde if he would rule out under the public authorities proposition that he has proposed, a commission created by federal statute with policy-making powers, completely autonomous, with exceptions with regard appeals, and submission to Parliament of annual budgets, annual reports, and of course subject to the approval by Parliament and the voting of the money by Parliament for the necessary funds to enable the Commission to carry on its operations.

I should like him to comment on that, if he will?







1 MR. LALONDE: Yes, thank you, Mr. Smith.

2 When you state appeals, with provision  
3 for appeal, I presume it is for appeal to Governor-  
4 in-Council on certain matters?

5 COMMISSIONER SMITH: No. Excuse me  
6 for interrupting you here. That is one thing I should  
7 have mentioned. The appeal would not be to a Minister  
8 of The Crown or the Governor-in-Council. The appeals,  
9 for the sake of argument, to a pilotage appeal board,  
10 which would be a creation of the Federal Government  
11 under the Statute, but no appeals to Ottawa.

12 MR. LALONDE: I see. I thought when  
13 you said appeal, it is an appeal from local admin-  
14 istration, whatever it may be, to the central authority.  
15 Is that what you mean?

16 COMMISSIONER SMITH: What I meant by  
17 appeals was this: there would be different classifica-  
18 tions of appeals. Appeals from the commission's  
19 ruling, for instance, on the revocation of a pilot's  
20 licence.

21 MR. LALONDE: Appeal to a judicial  
22 body?

23 COMMISSIONER SMITH: Appeals to a board  
24 that would be set up under the Statute -- call it  
25 what you like -- Pilotage Appeal Board, but it would  
26 be an ad hoc organization because it would not be  
27 necessary to have a permanent appeal board of that  
28 kind. But these appeals would be made from the  
29 commission's rulings or their decisions on matters of  
30 discipline. Appeals, I would think on the question of





1 tariff matters, pilotage tariffs, might be, for the  
2 sake of argument, made to the tax expert board in  
3 this country, the Board of Transport Commissioners.

4 Now, would you care to comment on that?

5 MR. LALONDE: I would certainly care  
6 to comment on this, and, as a matter of fact, I have  
7 some notes on this particular subject. I want to  
8 deal with this matter, and with your permission, I  
9 would prefer to deal with it a little bit later and  
10 I will come to this in a few minutes, I should say.

11 COMMISSIONER SMITH: Fine.

12 MR. LALONDE: I will probably go at  
13 length over this matter, and if when I am through  
14 with my notes on the subject, on this particular sub-  
15 ject, if you feel I have not answered your questions  
16 I will certainly be glad to elaborate what my point  
17 of view would be.

18 COMMISSIONER SMITH: Thank you.

19  
20 (Through the interpreter)

21 MR. LALONDE: Gentlemen, yesterday we  
22 had mentioned three principles which were, to our  
23 mind, some guiding principles in any reform of pilot-  
24 age which was to be envisaged, and I ended by stating  
25 that there were four other guiding principles upon  
26 which I wished to draw the Commission's attention.  
27 The following principle I wanted to raise was a  
28 principle which might give rise to more discussions  
29 than the three other ones. This principle is to the  
30 effect that the cost of the service should be borne







1 by the users.

2                   Regarding this matter, it seems evident  
3 that the pilotage service, whether it has to do with  
4 the acts of pilotage itself, run by pilots or differ-  
5 ent services, such as pilot boats, despatching services,  
6 are all services which are exclusively and essentially  
7 directed towards the services of ships using pilots  
8 whether on a regular basis or occasional basis only.

9                   At the present time the policy that has  
10 been followed in Canada varies. Shipowners were called  
11 upon to pay not only for the services of pilots them-  
12 selves, but shipowners have practically always been  
13 called upon to pay also for the services of pilot  
14 boats. Shipowners, on the other hand, usually and  
15 generally were not called upon to contribute to such  
16 services of pilotage as services on land, except in  
17 cases in Cornwall when there is a pilot boat, there  
18 is a taxi at the disposal of pilots, to take them from  
19 the pilotage station up to the boarding station.

20 When I say that the formula for the pilots has varied,  
21 it is due to the fact that there are certain areas  
22 where the shipowners have been called upon to pay for  
23 all the costs of pilotage, and I refer to the case  
24 of the Great Lakes Basin: that is, from the three  
25 Pilotage Districts of the Great Lakes, ever since 1961.

26                   I think the principle that I am  
27 bringing forth is valid on the basis of economic theories,  
28 general economic theories, and is in conformity with  
29 the principles of public financing or public finances.

30                   On the other hand, I think that there







1 may be certain special circumstances where by asking  
2 to pay for all costs, or to ask users of a service  
3 to bear all costs could be considered to be contrary  
4 to public interests by the Government or the public  
5 authority. Thus, when one wants to keep a harbour in  
6 operation or to give pilotage service, ancillary  
7 services in a given area, although the number of  
8 ships in that area or moving in that area is not very  
9 high, with the result that we had to charge those  
10 vessels for the costs of the operation of pilotage,  
11 those costs would become prohibitive. In such cases  
12 it may occur that the Government studying the general  
13 situation reaches the conclusion that it should be  
14 necessary to have a harbour in a given area and that  
15 it is necessary for these vessels to go to these  
16 harbours and give to the corporation the necessary  
17 services and it is not in the public interest to  
18 charge any vessel going to those areas certain charges  
19 that would be exorbitant, and I think in certain cases  
20 it would be -- this is only a theory -- public  
21 finances and government administration.

22 There is a valid argument for the  
23 granting of a specific subsidy to pilotage administra-  
24 tion in such a case, but I think that the present  
25 situation in Canada is a situation that may be  
26 related to the problem I mentioned yesterday; that  
27 is, the lack of a definite policy by a Pilotage  
28 Authority on different matters, and I think here  
29 we have a matter on which there is no definite policy  
30 in Canada.





1 In the Great Lakes, you have the whole  
2 area where shipowners pay for sole costs of pilotage,  
3 and they go through the lock at Snell Lock and  
4 there they fall in an area which is quite similar  
5 to District No. 1. It is Cornwall District, and they  
6 are not called upon to contribute to the administration  
7 costs in such an area.

8 So you have one part of the St. Lawrence  
9 River where all costs are covered by the shipowners,  
10 and another part of the St. Lawrence where only part  
11 of the administration costs are covered, and there  
12 does not seem to be any real justification for  
13 following a given policy in one area rather than  
14 another. We can understand on the Great Lakes, because  
15 of international agreements, and because of the  
16 American practice which has been mentioned, that the  
17 American policy, the usual American policy would be  
18 followed in that area.

19 Once more there is a kind of inconsis-  
20 tency in the Canadian policy regarding pilotage  
A2 21 administration, and if the Commission and the  
22 Government eventually reaches the conclusion that  
23 it would be in the public interests for all costs  
24 of pilotage administration to be paid by the Govern-  
25 ment or the public, well, this policy should be clear-  
26 cut so that we may understand it fully.

27 So far as we are concerned,  
28 unless there are specific reasons in the public  
29 interest in given areas, the pilotage costs in full  
30 should be borne by the users.







1 A fifth guiding principle in pilotage  
2 reform is the following, and it is far more specific be-  
3 fore this Commission. In Canada it is the fact that  
4 in this country pilotage varies greatly from one area  
5 to another. These variations are not only in the  
6 technical aspects of the task itself, but these  
7 variations exist in the style of operation or the  
8 nature of the operation and the nature of pilotage  
9 itself, where you have enormous distances of pilotage  
10 on the coast of British Columbia, or you then pass on  
11 to Montreal Harbour, or pilotage in Newfoundland or  
12 pilotage in Fort Churchill. It is immediately  
13 evident that the conditions are not similar, and  
14 the pilotage conditions are far from being identical,  
15 and vary greatly.

16 These variations must be taken into  
17 account whenever one thinks about possible reform in  
18 pilotage, whether at the administration level, or the  
19 system of pilotage itself.

20 The sixth guiding principle that should  
21 be studied by the Commission in view of a possible  
22 reform in the field of pilotage is that the interested  
23 parties, whatever type administration be adopted,  
24 should have the opportunity of giving out of their  
25 viewpoint to the public authority. I think that this  
26 is part of the requirement of a sound democracy, and  
27 if we want this principle to be truly implemented,  
28 I think in this particular field a procedure should  
29 be provided so as to allow interested parties to be  
30 able to give their own viewpoint, so a special system







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French

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1 should be established because, to a certain extent,  
2 wherever there is a lack of certain machinery, or  
3 system, in the matter of very closely interested  
4 parties, there is a certain danger that a party,  
5 to give its viewpoint, becomes quite theoretical.  
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1 I will quote here, as an example, the  
2 case of the reform of pilotage on the Great Lakes  
3 Basin and negotiations with the American authorities,  
4 and, of course, the Pilotage Authority can now come  
5 before this Commission and say: "What kept the  
6 Shipowners or the pilots from coming and giving us  
7 their viewpoint?" Our door was always open. They  
8 only had to write us and ask us for an appointment  
9 and express their own viewpoint; but when the parties  
10 are kept in the dark as regards whatever happens, how  
11 can they make representations, or give their own  
12 opinions; or when the parties have to face a fact  
13 of something that has been already done and then  
14 afterwards you have to try and say that the Govern-  
15 ment's policy be modified, of course, it becomes  
16 then more difficult because an administration, of  
17 whatever type it is, does not like to see demonstrated  
18 that the policy it has established was far from  
19 being as perfect as it seemed; and as soon as a  
20 minister, or an authority, or an administration  
21 has taken a public stand -- and this is quite human  
22 -- then very great proof will be asked for in order  
23 to modify the policy. While that is being pondered  
24 upon it will be far easier to discuss and see every  
25 possible angle of the problem.

26 As I understand it, in the Government  
27 field there are certain reasons of state that may  
28 at times intervene in order to justify using  
29 discretion, but I think there are a great many prob-  
30 lems in the field of pilotage that are not purely tech-







1 but have rather a technical nature and, as such, will  
2 not bring about the toppling of a government or a  
3 revolution in the country, whatever the solution that  
4 may be adopted, either one way or another; and I think  
5 that a lot of the problems can be discussed.

6 So that the sixth principle is that  
7 certain machinery should be provided whereby the  
8 different bodies could give their opinion to the  
9 public authority, and that this not be exclusively  
10 a cost factor as too often occurs.

11 Finally, the seventh and last guiding  
12 principle is the following: It is important to attract  
13 to pilotage and maintain within pilotage, the best  
14 possible candidates within the maritime field.

15 This Commission had the opportunity  
16 of examining at depth the physical difficulties of  
17 the task itself in Canada in the different small  
18 pilotage districts. The psychological conditions  
19 of the work itself have also been studied by this  
20 Commission; and while the nature of the work itself  
21 varies and varies in the type of vessels and personal-  
22 ities met -- and independently, or even aside from  
23 the physical difficulties and psychological difficulties  
24 of the task of pilotage, I think that one should  
25 underline the fact that the pilots in this country are  
26 the first ambassadors of this country at the practical  
27 level; that ships moving to this country will, in  
28 many cases, see the pilot come, perhaps, at the same  
29 time as, or even at times before, the officers of  
30 the Immigration or Health Departments, and they are the







1 first men that foreigners meet on board their ships.  
2 There is this aspect of services rendered at the  
3 technical and physical level, and there is also this  
4 aspect of their representation of this country, which  
5 implies that you must have within pilotage not only  
6 competent men from the technical viewpoint because  
7 of the work they have to accomplish, but also men  
8 whose personality is such that truly they represent  
9 the country they serve well.

10 I think that this last principle implies  
11 that we should provide conditions that would be  
12 such so that the best possible candidates in the  
13 maritime field would be interested or be attracted  
14 to the pilotage field.

15 I said that to my mind there were seven  
16 guiding principles which we should retain -- and I  
17 have just talked about them -- but perhaps it would  
18 be a good idea to add an eighth one, to be more  
19 specific, but I tried just to remain at the general  
20 levels so that these principles constitute necessary  
21 elements in order to establish a policy, without  
22 going into the details of the establishment of that  
23 policy.

24 I would like to pass on to the third  
25 part of my argument. The first part was the system  
26 that has existed in our pilotage during the recent  
27 years, and the second one was the study of the guiding  
28 principles in the reform of pilotage. The third part  
29 of my argument is an examination of the recommendations  
30 made by the pilots to other parties in order to get





1 reform in the field of pilotage.

2 I think these recommendations stem  
3 from the guiding principles I have just talked  
4 about, and, as I said, these principles may determine  
5 different opinions, according to the morality of such  
6 guiding principle; but I think the recommendations  
7 from the pilots on the St. Lawrence River and the  
8 Great Lakes are going to remain within the framework  
9 of the principles I have been talking about.

10 In my examination of the recommendations,  
11 I would like to divide them into two groups: I would  
12 like to examine the administrative structure within  
13 pilotage, and, in the second place, the conditions  
14 under which pilotage is exercised. I refer to whether  
15 there should be compulsory pilotage, whether there  
16 should be exemptions and so forth.

17 In the first place, let us examine  
18 the administrative structure in pilotage.

19 The St. Lawrence and Great Lakes  
20 pilots have submitted two briefs. These briefs,  
21 with regard to administrative structure, are written  
22 from the same viewpoint. The administrative structures  
23 are dealt with in the recommendations and may be  
24 summarized as follows:

25 The pilots in the St. Lawrence and  
26 Great Lakes suggest, first of all, that there should  
27 be decentralization -- and very marked decentralization  
28 -- in the administration of pilotage. In the second  
29 place, they wish the taking over of the administration  
30 by the pilots themselves.







1 I think this general stand with  
2 regard to administration follows from the guiding  
3 principles which I have set forth already, and is  
4 in conformity, in particular, with the first three  
5 of these guiding principles.

6 The first question I put to myself  
7 with respect to this recommendation of a general  
8 character -- that is, decentralization and the taking  
9 over of the administration by the pilots themselves  
10 -- was: Does experience justify a recommendation  
11 of this character? And I looked into the human  
12 experience of the pilots and the experience of the  
13 corporations and associations.

14 I have found that if you examine the  
15 pilots individually as captains, you find that a  
16 great number number of them are either former  
17 ship's masters, or former ship's officers who have  
18 searched on diverse ships either in coastal waters,  
R2 19 inland waters, or ocean waters, and many of them  
20 have very considerable experience in the maritime  
21 field, while others have come into pilotage through  
22 apprentice systems whose experience, perhaps, is  
23 less than that of the older pilot's, but, on the  
24 other hand, they have technical and formal training  
25 which is fuller than that of their predecessors in  
26 the field. A number of these pilots have had very  
27 important responsibilities aboard ships, either  
28 commercial ships or military ships during the war,  
29 and the way in which they have fulfilled their duties  
30 has meant daily responsibility of a very heavy nature





1 -- and I am not speaking of legal responsibility;  
2 but it is clear that in the law they have marked  
3 legal responsibility under the Act; but they are  
4 ship's masters' advisers. Then, there is a moral  
5 responsibility in addition to this -- a true moral  
6 responsibility -- and if we examine their true duties,  
7 in a good many cases we find that the pilot is the  
8 one man who is truly guiding the ship while he is  
9 on duty.

10 Now, I put to myself the following  
11 question: These men -- a great many among them --  
12 were formerly employed by the Department of Trans-  
13 port on departmental vessels, or in other duties  
14 relating to the Department. These men in the past  
15 have assumed responsibility -- true responsibilities  
16 -- quite major responsibilities. Why have they  
17 suddenly become school children who are quite irres-  
18 ponsible on the day when they are given a pilot's  
19 licence? So I looked into the experience of these  
20 men. I examined the men in Ottawa to whom these  
21 men are supposed to be responsible. Then I put  
22 to myself the further question: Is there such a  
23 difference in the level of human capacity and exper-  
24 ience -- human experience and ability -- between  
25 pilots and those to whom they are responsible,  
26 either within the present Authority or the proposed  
27 authority so that it may be stated without hesita-  
28 tion that they cannot administer their own affairs  
29 and they must be responsible to persons in authority  
30 who truly can guide them, direct them, give them







1 instructions -- men in whom they may place their  
2 trust?

3 Your Commission itself has had an  
4 opportunity to become acquainted with a number of  
5 these men through these sittings, through visits to  
6 different pilotage districts. I was mentioning  
7 yesterday about 50 such pilots on the St. Lawrence  
8 and Great Lakes alone, without taking into account  
9 the Maritime pilots and the British Columbia, gave  
10 evidence before your Commission.

11 I put the question to the Commission  
12 and leave the Commission to find the answer. The  
13 question I put to the Commission is the following:  
14 Are these men whom you have seen, whom you have heard  
15 give evidence, whom you have become acquainted with  
16 during these sittings, are these men so incompetent,  
17 so irresponsible that they cannot assume the respon-  
18 sibilities which are now assumed by local administra-  
19 tors in the districts, and by the officials of the  
20 Department of Transport in Ottawa?

21 If we put this question in regard  
22 to the value of the pilots and their experience, we  
23 might put another question in regard to the exper-  
24 ience of their associations and corporations. It  
25 could be claimed, of course, that the pilots consider-  
26 ed individually are competent, not only when on  
27 duty but are fully competent to administer their  
28 own affairs. If we examine the individual case,  
29 we might find a general rule and yet associations  
30 or corporations are not the same thing as an individual.





1 I would like to underline certain  
2 points: in the first place, and I refer to the  
3 St. Lawrence pilots in particular, and I would like  
4 to draw attention to the fact that the St. Lawrence  
5 pilots and the pilots elsewhere in Canada -- I do  
6 not mention any other pilots because I am not suffic-  
7 iently cognizant of their traditions, but the St.  
8 Lawrence pilots have had very long experience. They  
9 have had a very long history, indeed, of administer-  
10 ing their internal affairs amongst the pilots of  
11 the St. Lawrence.

12 Take the case of the Quebec District  
13 pilots: I shall not make a summary of the history of  
14 the legislation. You will find it at page 127 of the  
15 brief of the St. Lawrence pilots.

16 From 1860 onwards, and indeed before  
17 that, the pilots in this Quebec District were  
18 administering their own affairs to a very great  
19 extent under the Act which had set up the Quebec  
20 Pilots' Corporation. They were administering the  
21 business themselves and this Act, at least in the main,  
22 which was interpreted over the course of the years,  
23 gave to them greater autonomy than does the Act  
24 now requested by St. Lawrence pilots and the Great  
25 Lakes pilots.

26 When, following this famous Lindsay  
27 Commission, the Corporation of the Quebec Pilots  
28 was abolished, only a few years sufficed for the  
29 pilots themselves to form a company to which all  
30 adhered, to which all belonged, and they created a







1 pool for administering their affairs and they gave  
2 the professional services required.

3 If you take the case of the Montreal  
4 District, I refer you to page 128 of the brief of the  
5 St. Lawrence Pilots, French version, you will find  
6 that they also had a very long tradition of auto-  
7 nomist administration there from 1918 onwards.  
8 They also formed a corporation and all of them were  
9 members of this Corporation. This Corporation is  
10 still in existence, as is the Quebec one, and these  
11 pilots, over the course of all these years, have  
12 handled their own administration. Indeed, if you  
13 go above Montreal you will find that in the recent  
14 period, in their case, after numerous attempts seeking  
15 different formulae, they succeeded in forming the  
16 Corporation.

17 You have examined the workings of  
18 the different organizations. I would like to point  
19 out, however, and to draw particular attention, to  
20 the long tradition of these organizations. I would  
21 like to point out how efficient these organizations  
22 have been, and how energetic they have been.

23 I would also like to draw particular  
24 attention to the sense of professional responsibility  
25 found within these organizations.

26 I should only limit a number among  
27 these. This is not the only evidence to that effect,  
28 but your Commission will find further evidence to  
29 prove this.

30 Take the case of the work done by these





1 corporations to improve the quality of the pilotage  
2 services on the St. Lawrence and on the Great Lakes:  
3 for instance, there has been tabled before your  
4 Commission the work which was ordered by the Montreal  
5 and Quebec Corporations of pilots for apprenticeship  
6 reforms, which was several years before that. The  
7 pilots have employed experts at that time to draft  
8 reforms in this field of apprenticeship training for  
9 pilots.

10 They had retained the services of the  
11 Dean of Faculty of Social Science at Laval to this  
12 end, as they had other experts.

13 Look at the work done by the Corporation  
14 of Quebec Pilots with regard to the transfer of  
15 the pilotage station from Pointe-au-Pere to Les  
16 Escoumains, and the active participation of all the  
17 committees set up to this end.

18 The abolition of the special pilots  
19 system in the St. Lawrence which both the shipowners  
20 and the pilots recognize has brought about a very  
21 marked improvement in the operation of the pilotage  
22 service.

23 I refer you to Volume 66A, page 8,145  
24 and to the correspondence tabled under Section 579  
25 in regard to the improvements brought in operation  
26 of the traffic, for the improvement of maritime  
27 traffic within Quebec Harbour.

28 There have been numerous recommend-  
29 ations concerning the operation of the harbour, con-  
30 cerning the circulation of ships at berths and so forth.







1 We might also mention the case of the  
2 research tabled before this Commission, undertaken in  
3 the Montreal District, in order to establish the  
4 pilots' station at Three Rivers and the division  
5 of the District into two parts and the studies ordered  
6 by the Montreal pilots for the re-organization of  
7 their District, to set up a pilot for the Montreal  
8 system, the Montreal Harbour Pilots' Station.

9 You have also heard Mr. Hamelin,  
10 adviser from Quebec who gave evidence that the work  
11 of the Corporation and the Pilots' Association had  
12 sought to improve their target funds and for the  
13 transfer of these funds to other institutions for  
14 better administrative purposes.

15 This is a case where the theoretical  
16 responsibility, in the case of Montreal, for instance,  
17 in the case of these funds had been solely in the  
18 hands of the Department to finance and the pilots,  
19 trying to improve this, engaged financial advisers  
20 who greatly improved the results of the working  
21 fund by advising them to make investments that would  
22 be wise.

23 There has also been evidence in all  
24 Districts with regard to the active participation of  
25 pilots in the setting up of tour de role regulations,  
26 despatching in each district.

27 There has been the constant co-oper-  
28 ation of pilots and superintendents. I might also  
29 mention the manner in which these organizations have  
30 worked most efficiently. They have followed the





1 development of legislation in the maritime field,  
2 in the pilotage field, both in the United States  
3 and Canada.

4 Before this Commission, there has been  
5 tabled exhibits, reports and pilot representatives  
C2 6 have appeared before different Parliamentary Committees,  
7 different Senate Committees - different Parliamentary  
8 Committees in Canada and the Committees of the Senate  
9 and Congress of the United States.

10 I would also like to mention the  
11 establishment of the Federation of the St. Lawrence  
12 River Pilots during those years. One can, within  
13 the idea of sinister plot, on the part of pilots,  
14 in order to get their hands on I don't know what --  
15 imagine the Federation would be the crowning of  
16 this effort in order to establish an empire.

17 -

26 -

30 -







/rps

1 You had the opportunity of meeting the  
2 pilots; you had the opportunity of studying their  
3 history and have, perhaps, met perhaps on the St.  
4 Lawrence River or on the Great Lakes in the past,  
5 either here or elsewhere in Canada, and in particular,  
6 if you study the case of the St. Lawrence River,  
7 look at the evidence of the dean of pilots, or the  
8 older pilots who came to this Commission; the divis-  
9 ions, assertions and misunderstandings from one  
10 pilotage district to another, and the type of dis-  
11 trust existing between some of them, and the fact  
12 that, perhaps, certain are led to believe that their  
13 own district are the most difficult to operate in the  
14 world, or that the pilots on the river are not as  
15 good as the pilots in their own district.

16 But the Federation of St. Lawrence  
17 River Pilots constitutes a very important develop-  
18 ment in what I would call the development of the kind  
19 of feeling of professional community, and this  
20 establishment of the Federation was an important  
21 fact as well in the increase or the development of  
22 the general concerns of pilots towards the service  
23 they were giving, and towards the community within  
24 which they lived.

25 Those who think or imagine that the  
26 Federation is an organization that takes pleasure  
27 in giving of advice to its minor groups, I would  
28 like to remind you that all this took place in a  
29 very natural way and through the true concern of the  
30 corporation and of each and every group, and I would





1 like to refer the Commission to paragraph E of the  
2 General Bylaw No. 1 of the Federation of the St.  
3 Lawrence River Pilots, and I will read the first part  
4 only: Member groups retain their absolute right to  
5 act separately from the Federation and the other  
6 member groups, and to take any attitude of their own,  
7 even contrary to that of the Federation, whenever  
8 they deem fit. Member groups are bound, however, to  
9 inform the Federation without delay of any decision  
10 they may take or intend to take and it may be of interest  
11 for the other member groups.

12 These groups have also tried to  
13 adopt an attitude of taking common steps inasmuch as  
14 it is possible to do so, and the Federation cannot  
15 interfere in the internal organization of any member  
16 group.

17 Your Commission was able to look at  
18 all the minutes of the Federation and other member  
19 groups, and I respectfully submit that this Bylaw  
20 was respected constantly during the whole of the  
21 history of the Federation.

22 Finally, I would, perhaps, like to  
23 almost use the reproach made by the shipowners toward  
24 us, and use this reproach to our own advantage.  
25 It is this type of claim that could be found in the  
26 brief of the Shipping Federation regarding the  
27 success of the pilots' corporations and the steps  
28 they had taken with the Pilotage Authority. I  
29 think that this allegation shows that the corporations  
30 were able to efficiently negotiate with the shipowners







1 as well as the Pilotage Authority.

2 Having thus perhaps not demonstrated,  
3 but at any rate given quite a number of examples  
4 regarding the dynamism, the efficiency of these  
5 organizations created by pilots, I hope I have given  
6 proof of their efficiency, but perhaps we could  
7 enumerate a great many more examples, but many of  
8 them have been proven through the evidence.

9 Your Commission made a study in depth  
10 of these corporations and especially the Quebec  
11 Corporation. I think we spent as much time studying  
12 the Corporation in Quebec as any other type of  
13 organization in Canada in the field of pilotage,  
14 and I think it would be interested to determine the  
15 number of documents filed with this Commission  
16 by the Corporation of St. Lawrence River Pilots  
17 regarding their administration and their activities  
18 in general.

19 What has the evidence to show on that  
20 matter? To our mind, the evidence shows, first of  
21 all, the soundness of the financial position of this  
22 Federation of the corporations. You had the opport-  
23 unity of studying the process of the systems followed  
24 in each case, and the fact that the corporations  
25 have a Secretary-Treasurer who is not a member of  
26 the Corporation, who is not a pilot, but who was an  
27 employee, and in many cases an employee who has been  
28 in the service of these groups for a good many years,  
29 and these corporations all have competent auditors  
30 and that these auditors examine the financial state-





1 ments of these corporations, according to the rules  
2 of their profession and respect all the provisions of  
3 the law in that respect.

4 If we look at the cost of operation of  
5 these organizations and these corporations throughout  
6 the years, I maintain that one would be struck by the  
7 services rendered by these organizations; you have  
8 seen the operation methods in these organizations; you  
9 have seen the offices of these organizations, and  
10 I think no one was particularly impressed by the  
11 luxury of these installations or these offices.

12 I do not think we could find any golden  
13 doorknobs or wall-to-wall carpet in the offices, and  
14 of course it is not the surplus of stenographers  
15 that has struck you when you visited these offices.

16 Now, if we study the financial state-  
17 ments of these organizations, we notice that if you  
18 do not come across such contributions to the pension  
19 fund or other type of contributions made by the  
20 pilots for their own personal protection, and only  
21 take into account the general administration costs  
22 of these corporations or of the dues to the Canadian  
23 Merchant Service Guild or the Federation of  
24 St. Lawrence River Pilots, one notices that the  
25 costs are quite reasonable, taking into account,  
26 especially -- if we take into account, especially,  
27 the services rendered by these organizations. You  
28 were able to notice, moreover, that the directors of  
29 these different organizations all work for these  
30 corporations without being paid for it, and the way







1 they are remunerated is that they are given certain  
2 turns whenever they look after the affairs of the  
3 organization, and this exists only during navigation  
4 system and all pilots who are here today at the present  
5 time are directors of the different corporations; all  
6 these persons are here in this hall without being  
7 paid, and they are charging and paying only for their  
8 own real expense and the same thing applies every  
9 winter when it is a period when they go on negot-  
10 iations and all the work that takes a lot of time  
11 to do; all the problems that take a lot of time to  
12 settle.

13           They have tried to pay the directors  
14 because their rules were giving them certain turns,  
15 pilotage turns for the time they gave to the business  
16 of the Association, and you have seen the number of  
17 turns that have been contributed for the past five  
18 years for each corporation, and you have studied the  
19 number of turns that have been contributed or given  
20 by each of these directors, and if you take the  
21 case of these sittings of the Royal Commission of  
22 Inquiry, it can be said that it would have been un-  
23 fair to ask a pilot to come and attend without any  
24 remuneration all the sittings of this Commission, and  
25 aside from that, and try and do their turns in  
26 pilotage at the same time that would have been accom-  
27 plished by their colleagues in the meantime.

28           In fact, according to the system fol-  
29 lowed at the present time, one can say that it  
30 does not cost anything to the pilots to obtain these





1 services of their colleagues, with the exception of  
2 additional work distributed amongst the total number  
3 of pilots in the given district. That is, there is  
4 not a greater number or lesser number of vessels,  
5 because the President of the Federation of the Cor-  
6 poration is working for the Corporation or the Feder-  
7 ation; the same service is rendered, with the exception  
8 that instead of having 77 pilots on duty on that  
9 day, there are 76 of them, and all of them have to  
10 take care of the work that would have been accomplished  
11 by the 77th one.

12 THE CHAIRMAN: We will have a short  
13 recess.

14  
15 --- A short recess.  
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On the matter of the financial administration of these corporations, I would like to underscore the democratic nature of the operations of these organizations.

We have explained before the system that was followed in the setting up of these organizations, and there were meetings that have been held at which suggestions were made and explanations given at the time, which have been given to people so that they may consider the matter before appearing before the corporation.

I think Captain (?) also told you in his evidence that even when they had a meeting, they refused to accept members, stating that only at the next meeting. This has been explained by Captain (?) in Montreal, Captain (?) in Ottawa, and in St. Catharines by Captain Stevenson, and I think that the procedures followed in all cases cannot be questioned.

I could also talk about the bylaws and regulations of these corporations and compare them with the older societies or associations. If you take the case of the Association of Quebec Harbour Pilots, as compared to the Corporation of the Lower St. Lawrence Pilots, you will notice, upon reading the bylaws of both of these organizations that, in the case of the corporation, a quorum of 40% was requested at any meeting, while in the older association the quorum was only a quarter; and the corporation had seven directors instead of six; and the bylaws provide for





1 the establishment of a great number of committees, and  
2 this didn't exist in the older associations.

3 The terms of reference of the Quebec . . .  
4 (translation not clear) . . . in the present corpor-  
5 ation, and the bylaws of that corporation provide  
6 elaborate procedures regarding the holding of meetings  
7 of the directors, and the procedure to be followed  
8 at such meetings, while the older association did not  
9 contain anything regarding that subject.

10 The bylaws and the rules and regulations  
11 regarding the whole election procedure are clearly  
12 indicated in the bylaws of the corporation, while this  
13 didn't exist in the case of the older association.

14 As also in the case of the United  
15 Montreal Pilots and . . . (translation not clear) . . .  
16 you will notice the same thing, that the quorum at  
17 meetings was 40% instead of a quarter as it was in  
18 the old time days, and the number of directors was  
19 brought to eight, as compared to the five in the old  
20 corporation. This has been set up by the corporation,  
21 and it didn't exist at the time of the partnership.  
22 There was no procedure regarding the meeting of the  
23 directors provided at the time of the partnership,  
24 while in the bylaws of the corporation they have another  
25 procedure regarding annual general meetings and  
26 the election of officers, and this is provided for,  
27 clearly, in the regulations of the corporation.

28 As regards the terms of reference of  
29 the directors of the corporation, as regards the  
30 Montreal Association, you will notice that the terms





1 in the old association were not as wide as in the  
2 case of the present corporation, because under the  
3 usual terms of reference given to the directors of  
4 an association, they have to administer the affairs  
5 of the organization by having a general meeting, and  
6 there is not the same type of general meeting provid-  
7 ed for in the new organization.

8           You will also recall the evidence of  
9 Captain (?) of Quebec of the extremely active interest  
10 of the members in the corporation, and of their  
11 duties during the winter season. He particularly  
12 referred to the fact that two-thirds of the members  
13 of the corporation were members of one committee or  
14 another, and were not taking an active part in the  
15 affairs of the corporation.

16           Also, I would mention the procedure  
17 followed for the adoption of the brief submitted  
18 by the Federation of St. Lawrence River Pilots,  
19 Exhibit 671, which shows the Commission the procedure  
20 followed.

21           I would also like to underscore the  
22 procedure that has been followed before the stoppage  
23 of work in 1962 and in the case of some previous  
24 stoppages above Montreal.

25           Oftentimes one can determine the  
26 democratic nature of an organization according to  
27 how it treats the minority or the dissenting elements  
28 within its ranks, and I think that the democratic  
29 nature of the corporations cannot be questioned.  
30 Once more we must notice the absence of dissidents,







1 outside of the corporations in the Districts of  
2 Cornwall and Kingston. Why in the Quebec and Montreal  
3 areas you have certain members who are not members  
4 of the new corporation and are still members of the  
5 older corporation, the fact that there are no members  
6 outside of these organizations, other than the  
7 Districts of Kingston and Cornwall, should not  
8 surprise anyone too much, and should not even surprise  
9 at all.

10 I would like to refer to the case of  
11 Pilot (?) who was recognized as a very active dissid-  
12 ent and who was adamant -- this is the Captain who  
13 was brought as a witness by the Shipping Federation  
14 before this Commission -- and he himself in his  
15 evidence indicated clearly that even if he had  
16 disputes in the past with the corporation, he did want  
17 to remain within from the corporation and wanted  
18 to go on working with them and have good relations  
19 with them; so with that, in each and every one --  
20 with the exception of the Associations in the  
21 Districts of Cornwall and Kingston -- to my mind  
22 simply demonstrates the solidarity of these people  
23 and the need of them to have a policy on earnings  
24 in order to defend their own interests, and also in  
25 order to have a good share of pilotage earnings.

26 As regards the Montreal and Quebec  
27 Districts, the fact that there are many members --  
28 well, I wouldn't say many -- but there are a few  
29 of them who are not members of the corporation --  
30 I think the number was seven in Montreal and six in





1 Quebec -- seven out of 127 and six out of 82 from  
2 Montreal and Quebec, respectively, that didn't become  
3 members of the Corporation and preferred to remain  
4 members of the Association. This can be understood  
5 because of the notoriety of these members and also  
6 the old Association has its members for a good many  
7 years; and the opinions you were hearing were of  
8 people or pilots who are not members of the Corpor-  
9 ation; while in Quebec as well as in Montreal I  
10 would like to refer to the evidence of Captain Barry (?)  
11 in Quebec and Captain Hamelin in Montreal, and also  
12 refer to the reasons given by these pilots for not  
13 joining the Corporation. I am sure that if you  
14 read the evidence, the reason given by these people  
15 at their level would not seem to be valid, in my  
16 opinion, and certainly they had very little idea of  
17 the legal situation of both the Corporation and the  
18 Association, as regards the attitude they have  
19 adopted in this matter.

20 As regards the Corporation of Professional  
21 Great Lakes Pilots, you have heard reference to a  
22 group -- a new group -- which enjoys, or is afflicted  
23 with, a different status -- different from that of  
24 other pilots in the St. Lawrence River, and that  
25 Corporation, which has recently been established,  
26 already had 20 members out of 32 possible pilots  
27 within the District. You have there the case of a  
28 corporation in particular which has been extremely  
29 divided by recent events, and I am referring, partic-  
30 ularly, to the events which Captain Matheson referred







1 in his evidence -- that is, the work stoppage and  
2 the abolition of the Great Lakes Association and the  
3 establishment of organizations and corporations in the  
4 interim; and already this group, or this association,  
5 includes a great majority of the pilots of this  
6 particular District.

7 As I stated before, the justification  
8 for the establishment of a democratic association is  
9 the way it treats its dissident member.

10 I would like to underline the absence  
11 of discrimination that has been shown by the corporations.  
12 There were those within their groups who did not share  
13 the views of the majority, or those outside who  
14 refused to become members of the corporation, and I  
15 would like to underline, in particular, that the  
16 persons who are not members of the corporations, both  
17 in Quebec and Montreal, take part on the same footing  
18 as any other pilot in the Province under the juris-  
19 diction of a corporation.

20 In the second place, we find that the  
21 meetings of those newly-formed associations are held  
22 and convened formally and officially at the same  
23 time, or subsequently, on the same date; but there  
24 is a time for the meetings of the corporations, and  
25 these meetings are held on a regular basis, and all  
26 pilots are invited to attend them.





1 You have had a great many pilots who  
2 have given evidence before this Commission and not  
3 one of them talked about reprisals or threats, pre-  
4 vious threats or threats following the evidence about  
5 the fact that they had joined the Corporation or not.

6 The most that happened were discus-  
7 sions that are held by pilots where it would be allowed  
8 to tell the Corporation or not, but never was there  
9 any allegation to the effect that the director or the  
10 Board of Directors of corporations had exercised undue  
11 pressure on a member in order to force them to join  
12 in the Corporation, or to make -- something or other --

13 The freedom of choice during these  
14 meetings has been left to the members. I would like  
15 only to mention in passing the short brief that has  
16 been sent and signed by 21 pilots of Quebec that  
17 five or six members came before the Corporation later  
18 on, in order to say they had changed their minds.

19 I refer to the document that has been  
20 filed with this Commission.

21 As regards discipline, it would be  
22 preferable and more efficient for them to have  
23 exercised their discipline within the corporations  
24 themselves. Their free choice has been fully respected.

25 I would also like to refer to the  
26 proposition by which a member cannot withdraw from  
27 the corporation. I would like, first of all, to  
28 mention the former associations that had existed  
29 before, did not provide that a person should remain  
30 a member of this society as long as he was there, but





1 I note that the deed of the society provides that  
2 for 56 years, and this covers the greater part of  
3 the career of most pilots, and the deed of the  
4 Society of Montreal was for 25 years which dates 25  
5 years back, which covers the better part of the  
6 career of most pilots ---

7 THE CHAIRMAN: Excuse me. Is the  
8 difference between the Act of Societies that they are  
9 encouraged by contract not to withdraw, they may  
10 withdraw subject to damage?

11 MR. LALONDE: Your lordship, the  
12 regulations provide they cannot withdraw or retire  
13 except by the unanimous consent of the members.

14 THE CHAIRMAN: From the legal point  
15 of view, I wonder what that means? I wonder what  
16 this is worth?

17 MR. LALONDE: There has never been,  
18 that I am aware of, any judgment in regard to this  
19 specific question, but the situation is such I merely  
20 describe it as it is in the regulations.

21 I would like to point out that no one  
22 has complained he has signed up not knowing what the  
23 situation was.

24 We should add that the apprentices  
25 live in daily contact with pilots in each district.

26 For a number of years they travel with  
27 pilots on board ships, and they have all the time  
28 they need to be familiar with, and become aware  
29 of the pilots' corporations and associations and to  
30 find out how these organizations work.







1 I remind you no pressure, no improper  
2 pressure was exercised or brought upon anyone to  
3 oblige him to become a member of these corporations.

4 I would also like to raise the question  
5 of a more general character: that is, in  
6 organizations like this it is extremely difficult,  
7 not to say impossible, to have true efficiency if  
8 the members can become members, and then abandon it  
9 as they wish and then the associations or corporations may  
10 become a type of station one can walk into and go out  
11 of at need; when one person wishes to get some kind  
12 of advantage and then they abandon it.

13 We know that in the cases of professional  
14 corporations set up under the Act, I would like to  
15 refer to the case of free associations, such as unions.

16 Take the case of the whole trade union  
17 movement in North America: in practice there is no  
18 Act which obliges any worker to become a member of  
19 any union, but practically all of the working conditions  
20 are under collective agreement in North America, and  
21 we have the closed shop as a result, and according  
22 to the Rand formula or any other formula.

23 Indeed, if you wish to have any kind  
24 of job or if you want to keep a job, you must become  
25 a member of such an association, or else pay your  
26 dues to such and such an association.

27 Indeed, what we have realized over  
28 the course of the years is that there has been true  
29 injustice, and this is found in the judgment on our  
30 Rand formula. And in the report of Judge Rand, when





1 he established his formula.

2 There is true injustice resultant from  
3 the fact that certain persons might gain all of the  
4 benefits and advantages derived taken from the major-  
5 ity, without in any way sharing in the cost of any  
6 improvements brought by the majority.

7 What happened in the case of the  
8 Corporation in Montreal and Quebec was more or less  
9 this: no one was obliged to become a member of these  
10 Corporations, but those who did not were called upon  
11 to contribute to these services supplied by all  
12 pilots and to the cost that might be involved in the  
13 steps and actions taken by the Corporations on behalf  
14 of the pilots.

15 I would also like to point out the  
16 fact that the pilots, in contrast to unions, do not  
17 negotiate such and such a clause with an employer,  
18 and they are not, therefore, able to require in  
19 any collective bargaining agreement, that all members  
20 within a district be a member of such and such an  
21 organization.

22 The present situation is one of  
23 contract, contract between the pilots within a given  
24 district where, through the Act of the association  
25 or corporation there is a provision under  
26 which the members freely join the organization.

27 Indeed, I would like to point out  
28 in my view this is a formula which, to all practical  
29 ends and purposes is one that is essential for the  
30 use of the pool. An association must be set up and







1 all should be members of this association.

2 I refer to the experience in Quebec,  
3 setting up of the Society in 1920, following the  
4 abolishment of the 1914 Act, and of following the  
5 judgment in the Parquette case when the Privy Council  
6 decided that the old Quebec Corporation did not have  
7 the power to hold a private fund. The pilots immed-  
8 ately formed a civil society to continue the  
9 common fund, and I refer to the foreign experience  
10 here.

11 Look at the case of the United States.  
12 Look at the recent events on the Great Lakes, the  
13 legislation of 1960; the experience in all states  
14 of the United States; the British experience; the  
15 French experience; the cases in Germany; the cases  
16 in Italy -- wherever pilots are not merely salaried  
17 employees there is a common front and there are  
18 associations or corporations to which all pilots belong.

19 It has been said ---

20 THE CHAIRMAN: Excuse me. I think  
21 in agreeing to the principles, we might wonder whether  
22 the formula is a legal one?

23 MR. LALONDE: Yes. The position that  
24 I would adopt, your lordship, is the following: if  
25 there is any doubt as to the legality of the provision,  
26 provision should be taken to make it legal.

27 THE CHAIRMAN: Section 349 permits  
28 the Pilotage Authority to take all measures to deter-  
29 mine in what way the pilots will be remunerated, and  
30 the authority may decree this. If it does not wish





1 to, can the pilots be forced to enter corporations,  
2 if they do not wish to?

3 MR. LALONDE: At the present time, I  
4 would like to point out to your lordship the fact  
5 that there is no dissident pilot who is obliged to  
6 follow his group, if we mean that a pilot were not  
7 bound by the legal obligation contract he has signed.

8 I wish to point out in Quebec and  
9 Montreal District, the two Societies still exist, and  
10 the bylaws which are the Corporation's bylaws are  
11 also the Association's bylaws. These were bylaws  
12 adopted by a vote of more than two-thirds of the  
13 members constituting amendments to the previous bylaws  
14 of the Society.

15 THE CHAIRMAN: If this meets a need,  
16 why has the reform not been made at the level of the  
17 Pilotage Authority by bringing in regulations under  
18 the general Pilotage Authority regulations to prov-  
19 ide this? There would then have been no doubt as  
20 to the legality of the position.

21 MR. LALONDE: This was what was done  
22 in the United States Act of 1960, where it is stated  
23 in Section 2, Section 4, paragraph (e) of the public  
24 law, 86-555, Exhibit 1,028:

25 "Notwithstanding the provisions of  
26 any other law, the secretary may author-  
27 ize the formation of a pool or pools  
28 by a voluntary association or assoc-  
29 iations of United States registered  
30 pilots, provided such arrangements and





1 facilities as may be necessary or  
2 desirable for the efficient despatching  
3 of vessels --" et cetera, et cetera.

4 THE CHAIRMAN: In a good many districts  
5 the pool does exist and it is provided for in the  
6 regulations, such as Saint John, New Brunswick;  
7 British Columbia and New Westminster, and it is in  
8 practice. In Quebec and Montreal it is not provided  
9 for.

10 MR. LALONDE: In the case of Montreal,  
11 obviously the regulations provide that all pilotage  
12 dues must be paid to the Montreal pilots.

13 refer also to the French legislation,  
14 and I trust that your Commission will take the time  
15 to examine this legislation in the field of pilots  
16 associations and common pools.

17 The Germans make the same provisions.  
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T/rps 1 Finally, I wish merely to point out,  
2 in my view in the regulations that exist at the  
3 present time, in the system set up by the pilots, there  
4 is no clause that would be contrary to public order;  
5 and I believe that the legality of this would be  
6 recognized.

7 In regard to the remarks with regard  
8 to the nature and character of organizations and  
9 corporations, I would like to point out what seems to  
10 me the stupidity of the allegations of the Shipping  
11 Federation in its brief. I will not go back to this  
12 point, but I take it the facts and the evidence are  
13 quite sufficient, and insofar as the reasons for the  
14 corporations existing, I merely refer to the legal  
15 opinion expressed by Mr. Paul Gerin-Lajoie, tabled  
16 before this Commission under Exhibit 696, setting  
17 out the reason for the existence of the Corporation.

18 If we examine the experience of not only  
19 associations of pilots on the St. Lawrence, but also  
20 that of other corporations and associations elsewhere  
21 in Canada, and especially the Corporation of Profes-  
22 sional Great Lakes Pilots, your Commission will have  
23 examined the organization of Pacific Coast pilots,  
24 the setting up of the new Corporation and the efforts  
25 of Maritime pilots to form their organizations and  
26 defend their interests.

27 In its brief and in its evidence, the  
28 Federation of St. Lawrence Pilots --- I am sorry,  
29 previously I gave a reference to the legal opinion;  
30 it should be read as Exhibit 676.





1                   Thus, the Federation and the Corporation  
2 of Professional Great Lakes Pilots stated we should  
3 refer to pilots' experience. We should not copy  
4 what has been done elsewhere and copy that in Canada,  
5 but it seems to me we would be wrong in not examining  
6 what has been done in foreign countries in this  
7 regard for pilotage is truly international in character.  
8 There is a great similarity in the duties from one  
9 country to another. The role is about identical; the  
10 status of the pilots is about identical both in  
11 regard to his duties aboard ship -- the same ships  
12 picking up pilots on the St. Lawrence and picking  
13 up pilots anywhere in Europe.

14                   You have similar difficulties in  
15 navigation. The same techniques are used.

16                   In our view we should examine what has  
17 been done most recently in countries where pilotage  
18 has been recently reformed, and we refer to three  
19 cases in particular -- four cases in particular:  
20 Germany, France, Italy and the United States -- Public  
21 Law 86-555.

22                   You have had a recent revision in the  
23 field of pilotage, and our claim is to the effect  
24 that these four countries where there has been  
25 fairly recent reform in legislation proves there  
26 has been reform in administration of pilotage that  
27 could be very similar to recommendations made by  
28 the Corporation of Professional Great Lakes Pilots  
29 and the Corporation of St. Lawrence River Pilots.

30                   In Canada we have a tradition which







1 obliges us to look up British institutions when  
2 we are looking at maritime institutions, examining  
3 maritime institutions. I would point out the British  
4 system in pilotage is the result of a lengthy evol-  
5 ution. This evolution and the reform brought into  
6 pilotage in Great Britain has been particularly  
7 British in character. As usual, they have tried to  
8 accept systems that were the practice. It is so  
9 logical, it seemed so well set-up from the administra-  
10 tive point of view that no reforms seem necessary.

11 You have the institution of Trinity  
12 House which administers or has a look into a number  
13 of pilotage cases. In other cases the Board of  
14 Trade does this work, and so forth.

15 I think on the matter of reform of  
16 administrative structures within pilotage, we haven't  
17 very much to learn from the United Kingdom.

18 The formation of the St. Lawrence  
19 pilots was particularly for a system drawn from the  
20 German system, which of all European systems is the  
21 one which has been most recently reformed. It was  
22 reformed in 1964, and the United States reforms of  
23 1960. Reforms among pilots on the Great Lakes -- I shall  
24 not go into what has already been given in evidence,  
25 the exhibits tabled; particularly I refer to Volumes  
26 95 and 96, the evidence of Captain Bedard with regard  
27 to reforms brought about in Germany.

28 The Commission will have time to study  
29 the legislation as well as the German regulations in  
30 the field of pilotage, and I express the hope that





1 perhaps the Commission will deem it pertinent and  
2 even necessary to go outside in order to see how  
3 this system operates.

4 I would simply also like to stress the  
5 danger will be the following: if we say that we can't  
6 copy to the letter everything that can be done abroad,  
7 oftentimes this is used as an excuse in order to  
8 say, "Well, you know, the Germans are not like the  
9 others. The German genius: this is different. These  
10 people have a certain sense of authority, of  
11 administration and organization, and this system  
12 wouldn't work here. It is not in our own nature,"  
13 but I think that this is not a reason to preclude a  
14 study in depth of this problem, and I do not think  
15 that the Canadian pilots are less competent than  
16 German pilots as regards the administration of their  
17 own affairs.

18 You have heard the evidence of pilots  
19 of the Great Lakes Pilots' Association, and this  
20 Commission had an opportunity, also, of having a  
21 demonstration in Washington. There were difficulties  
22 in the administration on the Great Lakes, and all  
23 these problems are not solved, but I would like to  
24 mention that this system has been in existence only  
25 since 1961, and in the case of the Great Lakes, we  
26 have three districts therein which have been created  
27 and established without any former local basis and  
28 existence.

29 In many cases the American pilots on  
30 the Great Lakes are pilot who, for years, had not





1 piloted on board American ships on the Great Lakes,  
2 and suddenly one day ten adult men, having each their  
3 own personality and opinions, were gathered together  
4 in order to establish a corporation and administer  
5 a pilotage system which is a complex operation. So,  
6 in the final analysis, I think it would be unfair  
7 to reach too unfavourable conclusions about an oper-  
8 ation which barely started to work and which, secondly,  
9 was not evolved slowly, as was the case elsewhere  
10 in Canada.

11 What strikes me is the already remark-  
12 able results obtained by the American Association of  
13 Pilots on the Great Lakes in three years, and I refer  
14 the Commission to the evidence given before it  
15 by the representatives of the Lake Superior Pilots  
16 Association.

17 I now ask a question: Why shouldn't  
18 the Canadian pilots do what the American pilots on  
19 the Great Lakes and the German pilots have been doing  
20 for many years? Your Commission has had an opportunity  
21 of going to New York recently, and I refer you now  
22 to the concrete experience, and not simply the  
23 experience of the study of the regulations or the  
24 law, but the real experience, the concrete experience  
25 of the New York pilots.

26 I think that, while, we have to  
27 conclude to all practical purposes they administer  
28 their affairs themselves -- and I refer to the evidence  
29 regarding the concrete experience of Southampton;  
30 the pilots of France; the pilots of Italy; and pilots within







1  
2 Antwerp Harbour -- I think there is danger that we  
3 adopt towards the Canadian pilots a certain type of  
4 paternalistic attitude, and unconsciously we reach  
5 the conclusion there should be above them a superior  
6 authority that is going to administer on their  
7 behalf. I think that with former experience and  
8 with the evidence given and the experience above, it  
9 is doubtless that Canadian pilots would be in a  
10 position to assume local administration of pilotage.

11           There are certain points in the recommend-  
12 ation of the Federation of Pilots, the Corporation of  
13 Great Lakes Pilots that I would like to underscore  
14 right now, and I think I am now going to answer the  
15 problems raised by Mr. Commissioner Smith at the out-  
16 set of today's sitting: the Federation of St. Lawrence  
17 Pilots and the Corporation of Professional Great  
18 Lakes Pilots suggest the establishment of a position  
19 of Commissioner of Pilotage. The first question that  
20 should be asked is: Why only one Commissioner? I  
21 would refer to the arguments given on pages 172 and  
22 173 of the brief of the Federation; the French text.

23           These arguments are simply to the effect  
24 that we think that it is possible, as in the case  
25 in Germany at the present time, to have only one  
26 person in order to look after the operation of  
27 pilotage, but this person should have at least  
28 two assistants. In other words, there should be  
29 three persons, and perhaps one would have legal  
30 experience; the second one, maritime experience; and





1 the third one, training in the economic field as  
2 well as accountancy field. Would it be serious if  
3 the Commission were established composed of three  
4 members instead of one member and two assistants?  
5 I think this is a matter of detail, but one point  
6 we want to avoid in our recommendations is that the  
7 Pilotage Commission become, again, a smaller D.O.T.  
8 in ten years and the Commissioner, with two assist-  
9 ants, each having a secretary and perhaps a certain  
10 number of clerks eventually, but I am afraid if we  
11 establish three commissioners there will be two assist-  
12 ants and all the additional personnel. This has only  
13 to do with the implementation of the good old Parkin-  
14 son's Law.

15 I recommend wages equal to that of  
16 a chairman of federal commissions, or the salary or  
17 wages of a deputy minister. I think that this man  
18 should be well paid so that we may have a man who  
19 will be competent enough and have the necessary know-  
20 ledge as well as necessary personality and prestige.

21 Aside from that, and this is quite  
22 human, it would be normal for that man to have higher  
23 remuneration than any pilot in Canada. It would be  
24 abnormal that we should find ourselves in a situation  
25 of a man who would be constantly looking on the other  
26 side in order to find out if there is a pilot in the  
27 country who was earning more than he is.

28 I think from this point of view  
29 it would be a good idea for this man to enjoy sufficient  
30 or adequate remuneration. The Commissioner should be







1 bilingual -- naturally it would be useless for me  
2 to dwell on that point -- because of the fact a  
3 great proportion of the pilots are French-speaking in  
4 Canada. It would be very advantageous, even neces-  
5 sary, for the Commissioner to be bilingual; this  
6 simply to hasten or expedite correspondence between  
7 the different interested parties.

8                   Should the Commissioner be a former  
9 pilot or seaman? Well, the Federation of St.  
10 Lawrence River Pilots have no definite stand regarding  
11 that.





W/rps 1 I think that the principle that we are setting  
2 forth is the following -- and I have filed with the  
3 Commission the three aspects I have mentioned -- that  
4 whatever the status, or wherever we can find the man  
5 who has a lot of time, or experience, whether he is  
6 a Commissioner, or an assistant to the Commissioner  
7 -- all these depend on the man who is appointed; and  
8 in each case this Commission of pilots, we have  
9 suggested, rather than having administrative powers  
10 -- on pages 174 and 175 of the brief of the Feder-  
11 ation -- the French text -- we have enumerated the  
12 powers that they would have, in the final analysis;  
13 and on page 173 of the English text we also have  
14 reference to certain powers that are subject to being  
15 reviewed by an overall authority.

16 As regards the powers, if I could  
17 refer to them, we have stated that the Commissioner  
18 has powers over the efficiency and the safety of  
19 the pilotage service, and that the pilots are  
20 submitting some annual financial statements that he  
21 also approves; and after that, in cases where groups  
22 of pilots could not meet the adequate standards, that  
23 he would have the power to say that there should be  
24 temporary administration which would be appointed  
25 in order to settle that problem, and we have created  
26 the power with our subjective provisions and we have  
27 enumerated them; some of them are to be reviewed by  
28 the Minister of the Department of Transport, and  
29 others by the Governor-in-Council, and others are to  
30 be subjected to revision by Parliament. I refer to





1 paragraphs 176 and 177 of the brief, the French text,  
2 and pages 168 and 169 of the French (?) text.

3 We have adopted this attitude because  
4 I think that it corresponds to the situation with  
5 federal commissions of an administrative character --  
6 but I will come back to this question later on. I  
7 only want to mention, further, that the Commission  
8 will have final and binding powers within the Govern-  
9 ment.

10 In federal administration, most of them  
11 are actually judicial commissions. For example, the  
12 Appeal Commission has to appeal direct to the Exchequer  
13 Court; but the commissions of an administrative  
14 character have practically all -- I haven't found any  
15 of them which had final and binding powers. In those  
16 cases the regulations, the decisions -- or, rather,  
17 the recommendations -- of these commissions are adopted  
18 by the Minister or by the Governor General-in-Council.  
19 But I will come back to this point.

20 We also recommend an advisory committee  
21 on pages 180 to 183 of the brief (French text). We  
22 think -- on page 180 of the English text -- that it  
23 is a good reason but it is not an essential one.

24 After the Commissioner and his personnel,  
25 if the procedure we suggest for the modifications to the  
26 bylaws, or substantial changes -- if this procedure  
27 is accepted -- then the parties concerned will have the  
28 opportunity of appearing and giving their viewpoints,  
29 and at that time the existence of the consultative  
30 or advisory committee is not as essential, but nonetheless







1 we believe that the recommendation expressed in our  
2 submission could work just as easily through its  
3 usefulness for the Commission or the Commissioner.

4 As regards the administration of  
5 pilotage by corporations or pilotage associations, we  
6 may ask if these corporations should be institutions  
7 of public or private law. The French system and the  
8 American system provide, rather, institutions of  
9 private law, and I have referred previously to  
10 Article 4E of the American law; and the French Act  
11 contains a similar revision regarding the existence  
12 of pilotage associations, without specifying all the  
13 different fidelities or the nature of these assoc-  
14 iations.

15 Now, as regards the modalities of the  
16 administration, we provide that the corporations  
17 could be either the owners or the lessees of the  
18 required material and equipment for the purpose of  
19 pilotage. In Germany, as you heard in evidence, I  
20 think, the State remains owner of important investments  
21 such as pilot boats and immovable property, and the  
22 pilots administer these institutions, of that material  
23 and equipment, and every year a capital reserve  
24 is made which is kept by the State for the renewal  
25 of this equipment. In France and the United States,  
26 as you know, the pilots are the owners of the material  
27 and equipment.

28 In the case of Canada, since there  
29 is already material and equipment in existence, perhaps  
30 the formula would be the same with the material and





1 equipment until it is completely exhausted and used  
2 up and then it could be turned over by the State to  
3 the pilots.

4 I would also mention the necessity of  
5 having financial autonomy in the hands of each district.  
6 I think that if we keep a certain margin in each case  
7 and in each group and it is a sound and efficient  
8 and economic administration, one should as much as  
9 possible restrict operations within each district so  
10 that people feel truly responsible for each district  
11 in Canada, and where the income of the district is  
12 not enough to bear the cost -- this is the same  
13 principle I expressed this morning -- in such a case  
14 there should be a specific subsidy provided which is  
15 clear cut and which could be used -- and I would  
16 refer to England, France and Belgium, especially.  
17 The situation in Germany and the United States,  
18 where the pilotage district, from the administrative  
19 viewpoint, is completely independent, autonomous  
20 and separate, as regards the chief pilot's position . . .

21 COMMISSIONER SMITH: Are you moving  
22 on to another phase of your argument?

23 MR. LALONDE: Not yet, Commissioner  
24 Smith. If I may, I think I may be able to enlighten  
25 you on this specific point . . .

26 COMMISSIONER SMITH: It has to do with  
27 the question I raised earlier.

28 MR. LALONDE: Well, I think I have  
29 something more to add to this matter later on.

30 In the matter of the bylaws, I would







1 like to refer to paragraphs 467 to 470 of the brief  
2 of the Federation of Pilots and to the experience  
3 in Germany and France and Italy, and also to the  
4 experience that we have seen on the Great Lakes as  
5 well as in the New York Harbour.

6 I wonder if there wouldn't be a danger  
7 of making confusion with the position of president of  
8 an association, with the position of director of a  
9 district. I think that it would be preferable to  
10 establish a distinction between the two occupations,  
11 as provided in our brief, and I do think, in the light  
12 of the report we heard about the French experience,  
13 where the superintendent is not himself a full pilot,  
14 in practice the president of the association becomes  
15 the head pilot. This is an experience that has been  
16 reported on and it is in the evidence of Captain  
17 (?) when he has referring to the French administration;  
18 and I think that the inconveniences of this establish-  
19 ing of a distinction between the two positions are  
20 greater than the advantages.

21 As regards disciplinary powers, as  
22 provided for in the corporations at the present time,  
23 you have . . . (translation not clear) . . . always  
24 abstain to interfere in order to have certain decisions  
25 in disciplinary matters changed, or sentences reduced.  
26 The only times when they had them was when they had  
27 to take part in certain . . . (inaudible) . . . which  
28 didn't last long in the history of pilotage in  
29 Quebec and Montreal.

30 We suggest that disciplinary powers





1 be granted to the corporations, because we think the  
2 people in the best position to know their members  
3 and to know about their shortcomings and so forth are  
4 the ones who work with them; but in order to get  
5 this right, we have provided in our recommendation,  
6 paragraph 476, that all disciplinary bylaws of the  
7 corporations would be subject to being reviewed by  
8 the Commissioner; that is, in all cases there would  
9 be the possibility of appeal, so that no pilot would  
10 be submitted to penalties without having had an  
11 opportunity of appearing before a neutral third  
12 party.

13 Moreover, we suggest that the pilots  
14 themselves would prefer to establish a committee  
15 composed of people outside the pilotage district, if  
16 they were responsible for administration.

17 As regards the apprenticeship system,  
18 we have mentioned this problem in paragraphs 481 to  
19 484 of our brief, and we submit that these apprentice-  
20 ship schemes should be the responsibility of the  
21 professional pilots, and subject to the approval  
22 of the Pilotage Commissioner.

23 We also mention in our brief the  
24 reasons why, in the past, there was opposition on  
25 the part of the pilots and on the part of the  
26 shipowners to these apprenticeship schemes, and we  
27 have defined the number of pilots to be determined  
28 by the corporation. As you have seen and heard in  
29 evidence, this is a problem which was constantly  
30 under litigation, and I am convinced that with the





1 Commissioner having control of the tariff, there would  
2 be no danger for the pilots to increase unduly the  
3 number of their number and that the Commissioner  
4 would then be forced to increase a tariff upon a  
5 request of the pilots who would maintain that their  
6 number was too considerable for the work to be done,  
7 and I think that the Commissioner having control over  
8 the tariff would give only one answer: that the  
9 pilots should be responsible for their own acts and they  
10 must pay the consequences if there is any abuse in  
11 that field.

12 Can this regime or system be implemented  
13 throughout Canada? The Commission will certainly  
14 have to answer that. We have provided for the possib-  
15 ility of an understanding between associations and  
16 corporations as in the case of the St. Lawrence.







1 For instance, in Montreal Harbour  
2 you have a group of sixteen pilots who are in a  
3 corporation, and there is no reason why they should  
4 not be in agreement between the corporation on the  
5 St. Lawrence to centralize the whole system for  
6 collecting pilotage dues and the system of despatching,  
7 as well.

8 In the case of several districts, there  
9 is the case of where the maritime traffic is not  
10 very abundant and this is the case of ocean ships.  
11 There is the possibility of several harbour districts  
12 being brought together for pilotage purposes in the  
13 Maritimes at the present moment.

14 We believe with modern means of  
15 communications it would be quite possible in certain  
16 regions either a single district for several harbours  
17 or to keep the districts different, but to have  
18 a good pilot who would serve several harbours at  
19 once.

20 We think that in particular the  
21 setting up of corporations or associations with  
22 extensive jurisdiction, jurisdiction extended to  
23 several harbours would meet the question. That is  
24 the formula we suggest should be applied to several  
25 districts. Can it be applied to several districts?

26 In particular, we believe that the  
27 difficulties arising from this situation should not  
28 be saturated. There is no administrative difficulty  
29 standing in the way, no difficulty that cannot be  
30 met from the fact the pilots would be numerous in a





1 given district.

2 Let us take the Harbour District of  
3 Montreal where there are sixteen in number, if there  
4 were five or six pilots for a single district, this  
5 does not create any unsurmountable administrative  
6 barrier.

7 As to financial problems, I refer to  
8 the principle stated this morning if we believe that  
9 pilotage services are to be maintained in numerous  
10 maritime harbours where there is little traffic at  
11 the present time, and this maritime traffic does not  
12 bring in enough pilotage dues to pay for the admin-  
13 istration. We believe that there should be substant-  
14 ial subsidy to cover the financing of this area. It  
15 doesn't matter whether the pilots are responsible  
16 for the administration, or not.

17 Let us say the system we propose creates  
18 certain risks. I won't deny it. I will state, in  
19 the first place, any system that is going to be  
20 considered is going to give rise to problems. There  
21 is no perfect system, but there is one thing: this  
22 is a system which facilitates, more or less, the  
23 efficient operation of pilotage as regards the seven  
24 guilding principles I mentioned this morning.

25 I think if we are talking about an  
26 efficient operation of a pilotage system which in the  
27 case of such service would sort of approximate the  
28 level of decisions as near as possible for the  
29 operation of pilotage is a system that will be  
30 more efficient than a system that would do the opposite.







1 I believe that the system proposed  
2 here by the pilots is the system that approximates  
3 as much as possible the decision-making level to the  
4 operation level. What must be closely looked after  
5 is that there be a real and true division of power,  
6 in order to preclude any abuses, and that this power  
7 be truly a supervision power and not an administration  
8 power for whatever possible abuses that may be  
9 seen.

10 THE CHAIRMAN: Well, we are going to  
11 have a short recess of five minutes, and then we  
12 will resume until one o'clock this afternoon.

13  
14 --- A short recess  
15

16 MR. LALONDE: I was putting the  
17 question as to what possible abuses could arise  
18 in the proposal; as a result of the proposal of the  
19 Great Lakes and St. Lawrence pilots. We might have  
20 abuses financially speaking. For example, there  
21 might be exaggerated expenses that eventually would  
22 have to be paid by the Shipowners. Well, I wish  
23 to point out in our proposal we provide that  
24 budgets be drawn up and approved. Budgets shall  
25 be drawn up by corporations and be approved by the  
26 Commission yearly, and the financial control be  
27 at once prior and subsequent to the budget.

28 Take discipline: are we going to  
29 have abuses in this field? I think we may meet this  
30 danger by adopting a provision, as we provide, which





1 would make every decision of a disciplinary committee  
2 subject to appeal to the Commissioner.

3 Would there be abuses at the level  
4 of recruitment of pilots or admission of pilots or  
5 training of apprentices? In this case again, we  
6 have provided in our brief that all rules governing  
7 apprentices are subject to the approval of the  
8 Commission.

9 Finally, the last risk against which  
10 we may take steps - I am referring to the pilots being  
11 responsible for the number. Would they abuse their  
12 power?

13 I have already given a reply to this  
14 supposition: the Governor-in-Council, according to  
15 our proposal, and the Commissioner, first of all,  
16 being responsible for dues, the Commissioner would  
17 always be in a position to control the number of  
18 pilots in this indirect way.

19 I mean, if the pilots abuse the number  
20 of pilots to be admitted, the Commissioner might always  
21 make them aware that they themselves are bearing  
22 the consequences, because their revenues will be  
23 smaller if they attempt to add too large a number of  
24 pilots to their group.

25 Different proposals have been made  
26 before this Commission by other organizations; organ-  
27 izations other than the Federation. I might mention  
28 those in passing. What strikes us is that the whole  
29 body of briefs, in all briefs, what is asked is that  
30 the present system be dropped and a commission of some





1 sort be set up, whether it be the Vancouver Chamber  
2 of Shipping, the B.C. coast pilots, the pilots of  
3 the District of Sydney, the Shipping Federation of  
4 Canada, the Dominion Marine Association, the Civil  
5 Service Association of Canada, the Canadian Shipowners'  
6 Association -- there are a number of persons not in  
7 agreement. I would like to mention the only two  
8 votes that suggest the maintenance of the present  
9 system are two pilots, Captain Koenig and Captain  
10 Luccien Bedard.

11 It is true that the pilots of New  
12 Westminster request the New Westminster Pilotage  
13 Authority be replaced by the Department of Transport,  
14 the authority in pilotage. I think this recommend-  
15 ation should be treated -- considered as a wish to  
16 continue the present system, but have it changed over  
17 and that the Minister of Transport ought to be the  
18 pilotage authority. This should be viewed as a  
19 fact that they are too far from Ottawa, and they  
20 have not had sufficient experience.

21 THE CHAIRMAN: What they want is to  
22 create more revenues. They clearly advised me of  
23 this.

24 MR. LALONDE: The recommendations  
25 vary as to the powers that the Commission should have,  
26 and I now refer to the problem raised by Commissioner  
27 Smith; whereas there is almost unanimity of opinion  
28 with regard to the setting up of a commission for  
29 pilotage, certain organizations suggest that there  
30 be set up an organization that is fully autonomous, or







I2 1 they suggest there be certain revisions made by a  
2 superior authority. The Shipping Federation of  
3 Canada, for instance, suggests full independence,  
4 full autonomy.

5 The Canadian Shipowners Association  
6 does not specify the organization particularly, but  
7 suggests a commission that would be under the author-  
8 ity of the Governor-in-Council; the Vancouver Chamber  
9 of Shipping suggests an organization that would be  
10 similar to the National Harbours Board.

11 Your Sydney pilots want a commission  
12 under the jurisdiction of the Department of Transport.

13 In regard to this matter, I think  
14 there is a problem of political philosophy, political  
15 theory that arises in an agency like this; a government  
16 agency set up by the state with administrative duties.  
17 Should it be set up? Should it be created by the  
18 state? Should it have powers that are fully auto-  
19 nomous? This is a commission being responsible in  
20 regard to administration decisions neither to the  
21 Minister nor to the Governor-in-Council.

22 What we seem to fear in a certain  
23 quarter is that there would be political interference.

24 I would like to mention, first of all,  
25 in this regard that we should avoid political  
26 pressures in this regard. This is a basic right in  
27 every society in our western countries.

28 Political pressures have been exercised  
29 against the pilots, but obviously the Shipowners  
30 also have exercised political pressures, just as the





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1 pilots have, and I must state that in reading Volume  
2 107 at page 12,161 to 12,164, I found the Shipowners  
3 had a privilege that the pilots have never had.  
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11/rps

1 The Shipowners have met the Prime  
2 Minister of this country, and Captain Matheson gave  
3 lengthy evidence concerning steps taken by the  
4 Shipping Federation exercising pressures on senators  
5 and congressmen of the United States in order to  
6 obtain Great Lakes legislation.

7 I think there is a certain type of  
8 pressure, political pressure that is quite normal,  
9 and that is due to the proper workings of democracy,  
10 and it is due to ultimate political responsibility  
11 essential amongst men elected by the people. Does  
12 this mean the people elected by the people should  
13 be responsible for the details? No. Look at the  
14 vast number of commissions set up by governments  
15 looking at Crown corporations, and you see that this  
16 question of responsibility does not arise but in  
17 federal institutions you have almost always had,  
18 in the case of government commissions, a system under  
19 which important decisions and regulations adopted  
20 by these commissions have been subject to approval  
21 either by the Minister or approval of the Governor-  
22 in-Council.

23 Take the case of the Board of Broad-  
24 cast Governors: this Board received under the Act  
25 very extensive powers, but its decisions must be  
26 approved by the Governor-in-Council. In practice  
27 it becomes virtually automatic approval, but there  
28 are cases where the Governor-in-Council feels that  
29 there must be revision of decisions reached, or that  
30 adoption of certain decisions should be delayed, and





1 these decisions should not be brought into practice  
2 immediately. This has been a case with the Board of  
3 Broadcast Governors.

4 People may be in agreement with such  
5 and such a decision of the Governor-in-Council or  
6 not all in agreement, but there is one thing that is  
7 certain; and that is that citizens were able at that  
8 time to publicly express their viewpoint to make the  
9 democratic process work, and I think that there is  
10 danger that we may have illusions -- we may make  
11 ourselves illusions in thinking because we set up an  
12 autonomous body without being responsible to a political  
13 body, either a Minister or Governor-in-Council, there  
14 may be a danger that this organization or agency would  
15 then become a paragon of all virtues, and an agency  
16 perfectly objective in all its views.

17 This agency might well be impartial,  
18 but like every agency it may equally, through the  
19 course of the years, make mistakes. Or, indeed, it  
20 may become imbedded in particular routines which is  
21 quite unacceptable, and I am not speaking solely on  
22 behalf of pilots, but I am thinking in general terms,  
23 that this Commission follow a particular tradition,  
24 a tradition that be too favourable for pilots in  
25 contrast to shipowners, or favourable to shipowners  
26 in preference to pilots. The problem is the same.  
27 The system of political responsibility, ultimate  
28 political responsibility, the responsibility of an  
29 agency to a parliamentary body is one that must be  
30 considered.





1 We provide for this in our recommendation,  
2 that a certain number of subjects be finally decided  
3 by the Commission, finally decided or reached by the  
4 Commission in regard to certain matters, but import-  
5 ant topics such as tariffs, pilotage dues, are to  
6 be adopted by the Governor-in-Council as is now done.

7 We provide equally for the question  
8 of setting up pilotage districts and a definition  
9 of limits of pilotage districts should be subject to  
10 legislation and should be an amendment to The Pilot-  
11 age Act adopted in Parliament.

12 So as to ensure that all interested  
13 parties may have the fullest opportunity to express  
14 their viewpoints, we have also provided that exemptions  
15 from pilotage should not be decided, finally and  
16 ultimately, at the level of the Commission only, but  
17 that these should be questions that could be carried  
18 to a higher level, ever on prior recommendations  
19 by the Commission. And what is important, I think,  
20 is that this Commission, where the Commissioner should  
21 either reach final decision in regard to current  
22 affairs and normal pilotage affairs, but on a most  
23 important question his recommendations should be  
24 known. He should be given an opportunity to make  
25 profound research into this, but the Minister or the  
26 Governor-in-Council should have in hand a report  
27 due to this research by the Commission, and I think  
28 no doubt that in 95% of the cases, as is the case  
29 in regard to other agencies, other government agencies,  
30 the recommendations would be automatically approved.







1 But I do think, as I said a moment ago, that we judge  
2 whether a democratic society is truly democratic, we  
3 view this from the way in which dissidents are  
4 treated. We also judge the proper function of govern-  
5 ment from the way in which this 5% of the cases would  
6 be revised.

7 I think that the formula we have  
8 presented has enabled us to introduce sufficient  
9 flexibility to make sure that insofar as possible,  
10 the level that is closest to the pilots may reach the  
11 final decision; that in each case, whether it be  
12 at the level of current administration, local  
13 administration of each district or the level of the  
14 Commission or the level of the Minister, we have  
15 provided that if there is a question that seems to  
16 be one of overweaning interest, one of overriding  
17 interest, this question should be resived by a  
18 superior authority. That is, a decision by a corpor-  
19 ation with a majority interest should be subject to  
20 approval by the Commissioner; a decision of the  
21 Commissioner; that is, all interested in pilotage.  
22 A major question should be subject to revision by the  
23 Minister or the Governor-in-Council, and certain  
24 questions like the setting up of new districts, or  
25 the changing of the boundaries of districts should be  
26 submitted to Parliament and adopted as an amendment  
27 to existing legislation.

28 This formula which we have worked out  
29 and which we want to be as flexible as possible, we  
30 have sought to work out so that decisions should be





1 taken as nearly as possible by persons responsible  
2 for the operation, yet providing that there be the  
3 right for every citizen in this country to appeal and  
4 to make representations.

5 In regard to the most important  
6 decisions we have tried to see that these important  
7 decisions go through two stages and be examined at  
8 two levels, and in the final instance it shall be  
9 Parliament itself that shall reach the decision.

ish 10 MR. LALONDE: I don't know whether,  
11 Mr. Smith, I have explained my position clearly enough.

12 COMMISSIONER SMITH: You have answered  
13 in part, but I take it from your argument that your  
14 recommendation or proposition does rule out the  
15 illustration that I gave with regard to the different  
16 type of set-up altogether than is now in existence.

17 I want to also say I listened with  
18 tremendous interest to your statements in regard to  
19 this question, but there are some little phases of  
20 it which I did not completely understand with regard  
21 to a relationship between a public body, a quasi  
22 public body and the sovereign authority of the state,  
23 whether it be a Minister of the Crown or a Governor-  
24 in-Council.

25 Now, what was running through my mind  
26 was this: that you have set up in this country, the  
27 biggest one of all, the Canadian National Railways  
28 which is owned by the taxpayers of this country, and  
29 it is operated, in an administrative sense, as a  
30 completely autonomous unit. Now, it is not completely







1 autonomous. They cannot go and buy a string of hotels.  
2 They cannot buy other railways without getting per-  
3 mission from the Government. Nor can they increase  
4 rates without going to the Board of Transport Commis-  
5 sioners. I think they can reduce them but not increase  
J2 6 them, but in an operating sense from an administrative  
7 point of view they are a completely autonomous unit.

8 My question had to do with that type  
9 of set-up, whether your proposal would rule it out  
10 completely under Recommendation 3, I think it is,  
11 of the Federation of St. Lawrence River Pilots, and  
12 the other proposition that you made later yesterday,  
13 and I judge from what you say that it would rule that  
14 type of set-up out. Correct me if I am wrong.

15 MR. LALONDE: Well, am I wrong in  
16 thinking, in saying that the Canadian National Railways  
17 need to have approval of Treasury Board for capital  
18 expenditure?

19 COMMISSIONER SMITH: If the capital  
20 expenditure goes out of the field of semi-administration.  
21 Once it gets away from administration, they I think  
22 they do have to have approval of the Government.

23 MR. LALONDE: Our general approach on  
24 this matter, again, is that locally the pilots should  
25 be responsible, and if by analogy to the C.N.R. you  
26 are thinking in terms of a set-up in Canada which  
27 would be like the C.N.R. running pilotage with the  
28 pilots as its employees and with superintendents who  
29 would be employees of that Commission, by the C.N.R.,  
30 that I would say our proposal would rule it out.





1 If what you are thinking of is in terms  
2 of a set-up at the federal level or commission level,  
3 as you said, who would be extremely autonomous, from the  
4 Government, I would say there there is room for argu-  
5 ment. We have put up a plan which, as I say, fore-  
6 sees more flexibility in the sense that there are  
7 more levels of government intervening, certainly,  
8 than there is in the C.N.R. There is no doubt about  
9 it.

10 The risk I may see in your proposal  
11 would be if you see that the Board would become the  
12 kind of organization which would be so autonomous  
13 and it is certainly much less important than the C.N.R.  
14 -- it would be much less important than the C.N.R. --  
15 it would become a kind of little empire of its own,  
16 responsible to nobody.

17 It is true that the Chairman or  
18 Commissioner can be called before the Committee of  
19 The House every once in a while to make a report,  
20 but there is danger, I think, that the operation of  
21 that system might turn out more like the operation of  
22 the -- what is it, the Canadian Arsenals Corpor-  
23 ations? -- than the C.N.R. That is one of those  
24 lost Crown corporations about which very few MP's  
25 care and which is not, in my opinion, responsible  
26 to the public very much.





1 Our proposal keeps the system more  
2 under public scrutiny and surveillance or supervision  
3 by the government-of-the-day.

4 As I say, I think once you get to that  
5 level -- what we call the local district level --  
6 we think and we are convinced that the pilots can  
7 run their show and can run it better than it is run  
8 at the present time, or than by any other system.

9 Once you get into the realm of what  
10 should be exclusively the responsibility of the  
11 Commissioner, and what should go higher -- well, we  
12 have explained our suggestions there. We might argue  
13 for a long time to find out whether this particular  
14 point should be left out of the Commissioner, or it  
15 should be referred to the Minister of Transport for  
16 approval. My own assumption is that in practice,  
17 Mr. Smith, the Commission, or the Pilotage Commissioner,  
18 if he set up his position properly and competently,  
19 will become pretty well like the President of  
20 Canadian National Railways. That is, in practice I  
21 think it would be run independently.

22 What I wanted to foresee or prevent  
23 was these odd cases where there could be a mistake  
24 and there would be no appeal at all to anybody,  
25 anywhere.

26 COMMISSIONER SMITH: I want to correct  
27 one impression that I may have left. I didn't, for  
28 the moment, suggest that the employer-and-employee  
29 relationship such as exists in the C.N.R. would be  
30 applied in the illustration that I gave.







1 MR. LALONDE: No.

2 COMMISSIONER SMITH: Well, I just want  
3 to make one more reference to it, and then I am  
4 through.

5 When you speak of a private empire, and  
6 the suggestion -- the illustration -- that I gave  
7 this morning -- it has to be recalled that estimates  
8 for this type of statutory set-up would have to be  
9 passed by Parliament, subject to complete analysis  
10 and examination before the members, and an annual  
11 budget would have to be submitted.

12 MR. LALONDE: Yes.

13 COMMISSIONER SMITH: This annual report  
14 would have to be submitted so that it would be under  
15 a certain degree of scrutiny that I think would  
16 protect all interests, and especially the public  
17 interest, the pilots' interest and all those concerned.

18 MR. LALONDE: I think I agree with you,  
19 that with the item in the estimate, as it would be,  
20 it is evident that there would be opportunity every  
21 year for the MP's to ask questions and find out.

22 THE CHAIRMAN: Are you finished with  
23 this point?

24 MR. LALONDE: No, I am not finished,  
25 but I am finished with this point.

26 THE CHAIRMAN: Then, we will adjourn  
27 until 2:30 this afternoon.

28  
29 --- Luncheon adjournment.  
30





W/rps 1 --- Upon resuming at 2:30 p.m.

2 THE CHAIRMAN: From now until five  
3 we have two and a half hours at our disposal. If  
4 we had a recess around a quarter to four would that  
5 be agreeable to you?

6 MR. LALONDE: Certainly, your lord-  
7 ship. The question to determine is: will the Commission  
8 be able to be patient enough to hear me for an hour  
9 and a half?

10 THE CHAIRMAN: Well, this is for the  
11 benefit of the stenographer. We will try to divide  
12 the time up. We will carry on for about an hour and  
13 ten minutes or an hour and a quarter and then decide.

14 MR. LALONDE: I was discussing before  
15 the luncheon recess certain proposals made by differ-  
16 ent organizations who appeared before this Commis-  
17 sion, and also regarding the establishment of a  
18 commission and certain modalities that would be  
19 differences for the Federation of St. Lawrence Pilots.

20 Among these modalities which I am  
21 going to examine, in the first place, certain organ-  
22 izations have suggested the formation of a pilotage  
23 commission, which not only would supervise the  
24 administration of pilots, but would have a certain  
25 kind of administrative detail in each pilotage district,  
26 or, better, the commission would appoint a superin-  
27 tendent in each, who would be responsible to it.

28 Our only comments on that are to  
29 suggest that, to our mind, there would be a great  
30 risk of establishing again, under another form, the







1 present day situation which we have, which satisfies  
2 no one; and, finally, we would get a new establish-  
3 ment under another name establishing the heavy structure  
4 existing at the present time. And, in the second  
5 place, there would be the serious risk of central-  
6 izing, again, the pilotage administration to the  
7 extent that if you have a federal central commission  
8 with an employee in each pilotage district in Canada,  
9 then, may I ask the question: Why should not the  
10 centralization movement that took place in Canada not  
11 repeat itself in exactly the same way as it did in  
12 the past with the Department of Transport? I think  
13 that we can really foresee that this trend toward  
14 centralization is going to take place. It is unavoid-  
15 able, so long as the Pilotage Commission, or the  
16 Pilotage Authority, will be defined as being not only  
17 any sort of supervisory capacity over pilotage  
18 administration, but also as the administrator of  
19 pilots.

20 Another suggestion that has been made  
21 is also only to have one employee of the commission in  
22 each district, to administer pilotage, with the  
23 establishment of local pilotage committees under the  
24 jurisdiction of the commission itself.

25 Our attitude on this question, or our  
26 approach to this question, is to maintain that such  
27 an institution would not be necessary, and as regards  
28 the guiding principles we have set forth beforehand  
29 this morning -- this is to say, the efficiency and  
30 the safety of the pilotage service -- we must ask our-





1 selves the question: Would such an additional  
2 institution -- that is, a local commission, or an  
3 institution that would be in addition to the central  
4 commission -- be necessary? Our answer to that question  
5 is "No," because we think that such local committees  
6 cannot strengthen the administration of pilotage  
7 and will increase the costs -- the administration  
8 costs.

9 In our opinion these local committees  
10 wouldn't fulfil any duty that the pilotage corpor-  
11 ations themselves could not fulfil as well, or even  
12 better.

13 Another proposal that was made had  
14 to do with the local administration of pilotage by  
15 the National Harbours Board, or the organization that  
16 is responsible in each harbour. The Commission heard  
17 different witnesses in this regard, who seemed to  
18 support such an approach.

19 You have heard, for example, the  
20 harbour masters of Toronto and Hamilton and from the  
21 pilot harbours of the northern coast of the St. Lawrence  
22 and certain officers of Montreal Harbour Council who  
23 came to Montreal on a broad basis, and finally when  
24 the Commission asked the National Harbours Board,  
25 you will recall that the National Harbours Board  
26 adopted in this respect an extremely cautious attitude --  
27 a very cautious approach -- which could be summed  
28 up in the following way: "If you impose this upon  
29 us we will agree to it, but we are not too keen on  
30 it." Anyhow, I am going to come back to this question.





1                   On the other hand, you also have  
2 certain harbours such as those at Fort William and  
3 Port Arthur, which sent representatives to testify,  
4 or to give evidence, and it was mentioned that after  
5 experience and after discussion they did not see  
6 the necessity of being responsible for pilotage  
7 within these harbours.

8                   Once again, I would say that if we  
9 try to find organizations that could administer  
10 pilotage on a local basis, we could find dozens of  
11 them. You could have the local boards of trade,  
12 or representatives of the different local interests  
13 or organizations, and you could have the trade unions  
14 and municipalities and even the port authorities are  
15 harbour authorities, or any type of already-existing  
16 organizations who act as administrators. But I think  
17 this proposal must be examined, taking into account  
18 the guiding principles we have set forth yesterday  
19 afternoon and this morning.

20                   Secondly, as regards the question that  
21 you have raised, why shouldn't pilots be able to  
22 administer pilotage as well as these organizations  
23 that you would have to establish, or which already  
24 exist and to which we would like to add this additional  
25 responsibility? It is needless for me to repeat  
26 our stand on this matter, but I would like to make  
27 a few comments regarding this proposal as regards the  
28 National Harbours Board.

29                   I am going to underscore that Mr.  
30 (?) and Mr. (?), when they came to give evidence in







1 Montreal had been brought as witnesses for the Shipping  
2 Federation, and I want to stress the point that they  
3 were expressing their own personal viewpoints.

4 I am referring to Volumes 107A and 108A of the evid-  
5 ence, at pages 3,540 and 3,553.

6 On page 13,381 it was stated as follows:

7 "I don't think at any stage I laid  
8 any blame or indicated that there were  
9 inefficiencies in the present method."

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Q/rps1

"I said that in my view there would be advantages in another method without in any way trying to put blame or criticize the present system."

On page 13,383 he adds to a question put by myself as follows:

"Q. If I understand you well, the basis your statement is a general, theoretical concept or view of the matter, without having any specific complaints about the present system -- and this is once again referring to the first question -- and the only complaint you would have would be a general comment from your Harbour Master?

"A. Correct."

When Mr. Ligtermoet gave evidence he stated that he was simply giving his own viewpoint and when he stated that this was his own personal opinion at page 13,553 when we asked him if the proposal he was putting forward was the result of a serious and thorough study; on page 13,553 he answered a question put by Mr. Langlois.

"Would you tell me if in your study of the problem you have gotten some calculation as to the possible cost of such a system?

"A. You mentioned there my studies.







1 "I haven't studied this at all. I am  
2 only supporting or expressing a view  
3 on this, if this would be the case so  
4 there is no extensive study being done  
5 by me on this problem."

6 "Q. I understood -- I was under the  
7 wrong impression apparently -- that  
8 you had made an extensive study?

9 "A. No, I have not."

10 And I will go on to the viewpoint  
11 expressed by the National Harbours Board, as represented  
12 by Captain Charles Oppen who gave evidence before  
13 this Commission on September 30th, 1964, as reported  
14 in Volume 150 on page 19,791 and the following  
15 question was put to him.

16 Sorry. Mr. Jacques was referring  
17 simply to the number of questions:

18 "A. Questions numbered 11 and 12  
19 of the 12 questions you gave to us  
20 perhaps opens that subject up. This  
21 is what you had in mind?

22 "Q. Yes.

23 "A. Your lordship, regarding No. 11,  
24 it is not the Board's intention to make  
25 any request that it take over the  
26 administration of pilotage if the Board  
27 were asked to do it or ordered to do  
28 it it would accept that responsibility  
29 and carry it out to the best of their  
30 ability in the best interests of all





1 parties."

2 I would say once more there is no  
3 evident advantage of adopting one proposal aiming  
4 at making the National Harbours Board or all local  
5 harbour authorities, making them the organization  
6 responsible for pilotage.

7 Such is not the situation, at any rate,  
8 in most large harbours throughout the world. Whether  
9 you study the Harbour of Southampton, Liverpool,  
10 Glasgow, Hamburg, Le Havre, Marseilles, New York,  
11 San Francisco, Genoa or Antwerp you will not find  
12 this state of affairs.

13 If you take the case of Rotterdam  
14 harbour you have pilots who bring ships to dock them,  
15 up to the berth. You have a system of docking pilots  
16 similar to the one in existence in New York.

17 Contrary to the evidence of Captain  
18 Ligtermoet, the pilots steer ships over a distance  
19 of about 35 miles from the sea to the harbour, and  
20 are not employees of the harbour, but rather employees  
21 of the state like any other pilot in Holland.

22 As regards docking pilots in Rotterdam  
23 Harbour, they are under the jurisdiction of the City,  
24 which itself has jurisdiction over the harbour.

25 As regards London Harbour, it is  
26 important to underline that these pilots are under  
27 the authority of Trinity House, and these pilots  
28 bring vessels from the sea, from the high seas to  
29 locks in the Harbour of London itself, that is in  
30 the inner harbour of London, and that within the





1 harbour these movages of vessels within the basin are  
2 made by pilots called "The free men of the River Thames,"  
3 and this organization has a long history and contrary  
4 to the allegations that have been made, these men  
5 are not out of the jurisdiction and in the employment  
6 of London Harbour itself.

7 These "free men of the River Thames"  
8 have contracts with the shipowners and operate on the  
9 basis of contracts, doing the movages of vessels,  
10 giving the services of raftsmen and so forth.

11 I would add to this proposal the  
12 following comments: in the case of Montreal Harbour,  
13 I would like to mention the fact that the boundaries  
14 of the harbours in Canada oftentimes are not those  
15 or the same as the boundaries for pilotage purposes,  
16 and there may be problems of jurisdiction that may  
17 arise that could be quite numerous and quite complex  
18 indeed.

19 In the second place, I think we must  
20 refer to the basic concept of the role of the harbour  
21 authority in Canada. Generally speaking, the harbours  
22 in Canada are not responsible for giving the services  
23 of dock workers and stevedores and so forth. The  
24 harbours are not even concerned with the maintenance,  
25 replacement or change of aids of navigation within  
26 the confines of the harbour.

27 Of course, I am talking here about  
28 public harbours. You may have special provisions  
29 within private harbours.

30 Finally, I was, upon reading the evidence







1 and also the experts, struck by the lack of serious  
2 grievances regarding the present day situation in  
3 Montreal Harbour.

4 For example, in fact most grievances  
5 mentioned could be solved simply by better co-ordin-  
6 ation between different services, and if there are  
7 problems that would not be solved simply through  
8 better co-ordination, those problems would neither  
9 be solved by putting the pilotage under the respon-  
10 sibility and jurisdiction of the local harbour author-  
11 ities.

12 An exhibit of confidential order has  
13 been filed by the Montreal Harbour before this  
14 Commission as Exhibit 950. Unfortunately, I didn't  
15 have time to read all this correspondence that took  
16 place during the years, but I looked up this document  
17 by chance, and the only two cases I have examined  
18 rapidly struck me. I was really under the impression  
19 that this proposal was trying to kill a fly with a  
20 cannonball.

21 In one case it is reported that a  
22 ship's master complained of the way in which a  
23 pilot of the Montreal Harbour had steered his vessel.  
24 He passed too near another vessel and they nearly  
25 had a casualty or an accident, and Mr. Cameron wrote  
26 to the Superintendent, Captain Gendron and asked  
27 information regarding that. Captain Gendron made  
28 an inquiry of the version of the master of the other  
29 ship who told him he didn't notice anything special,  
30 and Captain Gendron answered back to Mr. Cameron in





1 telling him that he had the version of the other  
2 pilot of the other vessel as well as that of the  
3 master of the other vessel and Captain Gendron had  
4 obtained also the version of the first pilot in  
5 question and the final version was the following:

6 What took place was a manoeuvre which  
7 was highly regular and quite commonplace within  
8 Montreal Harbour. The master of the other vessel  
9 was used to this harbour. There was certainly distance  
10 between the two vessels, and the same thing applied  
11 to the other pilot and nothing abnormal was present.

12 Mr. Cameron wrote back and said he  
13 was very pleased this question would be answered.

14 The master had made a number of complaints  
15 all during the whole -- while they were upstream in  
16 the St. Lawrence.

17 In another case, there was a complaint  
18 about four departures without any previous notific-  
19 ation. Once more, there was an investigation under-  
20 taken which reached the conclusion that, in fact,  
21 in two cases the pilots had forgotten or neglected  
22 to advise the authority of the harbour, and they were  
23 condemned to a penalty.

24 In the other two cases, notices had  
25 been sent but the employees of the harbour had  
26 forgotten to mark it down.

27 Finally we find a letter of apology  
28 from Mr. Cameron stating our employees have been  
29 advised not to act like that in the future, or be more  
30 careful.







T/rps

1 Finally, I think that there were a  
2 certain number of cases where the pilots had tried  
3 to reach the authority of the harbour, and you have  
4 seen there are certain vessels which do not have  
5 radio-telephone apparatus, even in the Montreal Har-  
6 bour, and receive information on the part of the  
7 master of the tugboat that permission had been granted.  
8 Certain employees noted that the pilots had not  
9 asked for approval, for authorization, and they  
10 were not aware that there was no radio-telephone  
11 apparatus on board, and this was considered as a  
12 breach, and finally the whole matter was clarified.

13 I think there will always be a question  
14 of human error, whatever system is followed, but  
15 I think these serious grievances that may exist in  
16 this Exhibit 950 and the evidence given are grievances  
17 whose solution may be quite easily and simply found  
18 through better co-ordination and not, once more,  
19 through setting up or taking over by the Port  
20 Authority of local pilotage.

21 A final proposition made was that  
22 tending to make the St. Lawrence Seaway responsible  
23 for pilotage within or on all waters from Montreal  
24 to the Great Lakes inclusively. I shall limit my  
25 remarks to refer to the brief tabled by the Corpor-  
26 ation of the Seaway Authority under No. 1,292 in  
27 reply to questions from the Commission. I think  
28 this is an important document, and indeed the only  
29 document which truly represents the view of the Sea-  
30 way Authority. I refer to questions 13, 14 and 15





1 on page 6 of this brief, and I think that the Seaway  
2 has, perhaps, adopted an authority that is even more  
3 reserved than the National Harbours Board, with regard  
4 to this type of idea. I think that this is exactly  
5 the type of answer that many ministers frequently  
6 give in the House.

7 Question 13:

8 "Do you favour the Seaway having its  
9 own pilots as employees?

10 "A. If it is apparent that the  
11 employment of pilots by the Seaway  
12 Authority would make vessel transits  
13 safer and more expeditious, the Seaway  
14 would be prepared to accept that  
15 responsibility."

16 Question No. 14:

17 "Would it favour having administrative  
18 and disciplinary jurisdiction over  
19 pilots who might then be private  
20 contractors?

21 "A. No."

22 Question 15:

23 "Views of the Seaway Authority on  
24 Recommendation 4B on page 81 of the  
25 Canadian Shipping Federation Brief,  
26 Exhibit 1,213 -- " -- this is the  
27 recommendation for representatives of the Seaway  
28 Authority and the St. Lawrence Seaway Development  
29 Corporation on the American side with the Superin-  
30 tendent of Cornwall ---





1 "A. As indicated in the answer to  
2 question 13 the Seaway does not favour  
3 this proposal."

4 Now, if you take these three replies  
5 together it seems to me perfectly clear -- it seems  
6 perfectly clear that the natural conclusion -- perhaps  
7 I am prejudiced -- is that the Seaway Authority is  
8 not interested in a project of this nature.

9 Indeed, after all the evidence that  
10 has been submitted to this Commission, after all the  
11 analyses conducted by the Commission, they should be  
12 in a most difficult position if we sought to establish  
13 that the employment of pilots by the Seaway Author-  
14 ity would bring a greater element of safety in the  
15 transit of ships along the Seaway.

16 How would that change the status of  
17 a Mr. "X" who was a pilot going to make vessel transit  
18 safer? And, as to the efficiency or the improvement  
19 in efficiency, you have already had tabled before  
20 this Commission a number of cases showing that ships  
21 have been delayed due to there not being a pilot aboard,  
22 or a delay in providing a pilot either at Sarnia or  
23 St. Lambert, and I think the fact that so many ships  
24 have waited at Sarnia or Port Weller has nothing  
25 whatsoever to do with the fact that the Seaway Author-  
26 ity should have pilots as its employees. This was  
27 a question of the number of pilots available, and I  
28 think it would have been sufficient to have appointed  
29 more, or because there was too great a traffic for  
30 the capacity of the Welland Canal at that period.







1                   Insofar as delays that have arisen from  
2 time to time in the passage of certain ships, we note  
3 in a good many cases these were ships that were going  
4 downstream at St. Lambert, and again in this case,  
5 we would have to show that the Seaway has authority  
6 over pilots below St. Lambert; it being supposed that  
7 the responsibility over pilots may make circulation  
8 a little more rapid. Indeed, in most cases these were  
9 merely of a few minutes, and whether the person be  
10 an employee or not will not greatly change the sit-  
11 uation in this regard.

12                   There will, perhaps, be people who had  
13 been advised too late; perhaps there has been an  
14 accident; perhaps people have simply been late getting  
15 to the ship, and I refer the Commission to evidence  
16 in this regard to delays in a great many cases where  
17 it was been proven either the ship had called up too  
18 late or the despatcher had neglected to advise such  
19 and such a person.

20                   Therefore, the Seaway Authority itself  
21 does not insist upon having this responsibility. The  
22 argument that it puts, the hypothesis it suggests,  
23 suggests that the employment of pilots in itself  
24 will not solve the problem it has put, such as increase  
25 in safety or increase in speed of traffic.

26                   The Seaway Authority has no juris-  
27 diction over all the waters in which there is pilot-  
28 age between Montreal and Kingston. I would refer the  
29 Commission to Item 471, and you will note that most  
30 of the St. Francis Lake waters and above in the St.





1 Lawrence are not under the jurisdiction of the  
2 Seaway Authority. The same is true with regard to  
3 the waters between Port Colborne and Sarnia.

4 Mention has been made of the Suez  
5 and Panama Canals. In the case of the Suez and  
6 Panama Canals, the Canal Authorities have full, absol-  
7 ute jurisdiction over everything all along the Panama  
8 and Suez Canals. The Canal Authorities supply tow  
9 ships, supply navigational aids throughout the whole  
10 extent of these two canals. Control pilotages,  
11 control everything relating to navigation through-  
12 out the whole extent of both canals.

13 I would like to add at this point  
14 that we should not overlook the arguments, the military  
15 arguments of public security and the political  
16 arguments which play their part in the Panama and  
17 Suez Canals.

18 In seeking to explain the administrative  
19 structure found in the Canals of Panama and Suez,  
20 I am not referring to pilotage alone, but to the whole  
21 administration. If we refer to the case of the  
22 Panama and Suez Canals, we should also refer to the  
23 Manchester Canal, the IJmuidem Canal and the Kiel  
24 Canal in Germany. In all these places there are  
25 no pilots employed by these canals. Indeed, in the  
26 case of the Kiel Canal we might best say that this is  
27 an example of the pilotage administration system  
28 that we should like to have here in Canada.

29 Should I add that any proposal to  
30 make the Seaway Authority responsible for pilotage would







1 require the agreement and assent of the United States  
2 Government and the St. Lawrence Seaway Development  
3 Corporation.

4 If I were to make a general remark  
5 with regard to these diverse proposals made by other  
6 interested parties with regard to the forms in which  
7 pilotage should be administered, I might say that these  
8 proposals show that there is a lack, an unjustified  
9 lack of trust in the capacity of the pilots to  
10 administer their own affairs, and also proof, and  
11 this is a logical sequence, that there is a paternal-  
12 istic type of mind which is handling the admin-  
13 istration that does not seem to me justified by the  
14 very nature of the persons who are involved in this  
15 question.

16 Insofar as the proposals that pilots  
17 become the employees of someone, an employer being  
18 sought for them, I find it suprising to note that  
19 all of those who most frequently promote the idea of  
20 free enterprise are anxious to see others become  
21 state employees, or employees of some kind of state  
22 agency.

23 Again I am convinced that the recommend-  
24 ations made by the Federation of St. Lawrence Pilots  
25 and Corporation of Professional Great Lakes Pilots  
26 with regard to administration -- these recommendations  
27 by the pilots are proposals which certainly are  
28 expressive of the guiding principles which I have  
29 set forth, and which would certainly provide the  
30 maritime industry and the public with an efficient





1 service, a service that would provide every guarantee  
2 of safety.

3 This new structure which we are propos-  
4 ing would obviously involve very many changes in the  
5 present governing legislation. These changes are  
6 changes we have referred to in our briefs, and in  
7 particular, pages 197 and 198, paragraphs 506 and  
8 following, where we request that there be a special  
9 legislation, a special Act, attaching to The Canada  
10 Shipping Act, which would only cover pilotage. This  
11 does not mean that the concept behind the present  
12 legislation of The Canada Shipping Act was not a wise  
13 thought.

14 Indeed, Part VI of The Canada Shipping  
15 Act enabled sufficiently great flexibility in the  
16 administration of pilotage in Canada, and what does  
17 strike me is it was not thought wise to use the  
18 provisions of this Act in order to provide a suffic-  
19 iently flexible system. Advantage might have been taken  
20 of these provisions to decentralize the administration  
21 of pilotage. I refer to Section 327, where it is  
22 stated in paragraph 2:

23 "Whenever the minister has appointed  
24 as pilotage authority for any district  
25 his successors in office or any minister  
26 acting for him, or in the absence from  
27 Ottawa of the minister or of any  
28 minister acting for him his lawful  
29 deputy shall be the pilotage authority  
30 and any such pilotage authority may ---"





1 and this is the important part --

2 " --- and any such pilotage authority  
3 may by bylaw confirmed by the Governor-  
4 in-Council authorize the superintend-  
5 ent of pilots in the district to exer-  
6 cise any of his functions and for such  
7 time and for such purpose as he may  
8 decide authorize any person to exercise  
9 any particular function or power vested  
10 in the pilotage authority by this act  
11 or any bylaw made hereunder."  
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1/rps 1                   Indeed, this was a provision which  
2                   would have enabled, as I stated, a certain flexibility,  
3                   a certain adaptation, to new conditions in pilotage --  
4                   the new conditions that have arisen since 1945. The  
5                   reasons are not important to analyze, but this did  
6                   not happen. This does not affect the recommendation  
7                   we make -- that is, the adoption of a new Act.

8                   First of all, if you look at the legislation there  
9                   are numerous amendments in the present Act. We haven't  
10                  even got a consolidated text; and, inevitably, there  
11                  are inconsistencies because these provisions have  
12                  been inserted in The Canada Shipping Act.

13                         There is the convenience -- or, I  
14                   should say, the disadvantage -- arising from difficulties  
15                   in getting from Parliament or the administrative  
16                   authorities, consideration of pilotage as such.  
17                   Pilotage is just something else amongst the issuance  
18                   of licences to ships' masters, it is one of the  
19                   factors among a good many others of which the  
20                   Department of Transport must take cognizance; and the  
21                   fact that it is in the same Act contributes to the  
22                   fact that persons consider this Act as one single  
23                   thing and the administration of this Act as a  
24                   single responsibility of the Department of Transport.  
25                   I was hoping to enumerate the amendments that have  
26                   been brought into the Act, but I might mention that  
27                   there are amendments that have been adopted by  
28                   Parliament but have never been proclaimed. I refer  
29                   to the amendments with regard to Sections 373 and 374  
30                   in the text of the Act but which, in practice, have





1 never been proclaimed, and we have to go back to the  
2 1934 Act to find out what the position is.

3 THE CHAIRMAN: (Not translated.)

4 MR. LALONDE: Yes. There has been  
5 talk of the procedures. I spoke yesterday of the  
6 inadequate procedures in disciplinary matters provided  
7 in The Canada Shipping Act; and it would seem that  
8 a special procedure should be followed in regard  
9 to pilots. Even under the present Act this has been  
10 recommended and should be inserted in any new new.  
11 Indeed, a new Bill would enable us to clarify the  
12 status of pilots throughout Canada, and I refer to  
13 the confused position of pilots in Districts 2 and  
14 3 on Lake Ontario. I don't know what the position  
15 is exactly, but they are under the authority of the  
16 Department of Transport as the Department of Trans-  
17 port, but at the same time they come under the  
18 Pilotage Authority insofar as certain other questions  
19 are concerned. I don't know exactly what the position  
20 is in that regard. In any case, a new Bill on  
21 pilotage is essential and we will, of course, be  
22 following what other countries have found to be  
23 the necessary legislation, and we must come in  
24 behind France, England, Belgium, Denmark, Sweden,  
25 Norway, Germany and many of the states of the United  
26 States and the federal state itself, which have  
27 all got special legislation covering pilotage. The  
28 adoption of recognition of a special law on pilotage  
29 has, therefore, an additional advantage.

30 I might mention that in our approach







1 in our recommendations to this Commission, we have  
2 certainly the feeling that we have to start out  
3 afresh and not merely try to amend what has been  
4 done in the past. A special policy on pilotage will  
5 also permit us to bring specific consideration to  
6 pilotage questions as they arise and permit greater  
7 facilities in amending procedures. At the present  
8 time we can ask to an amendment to such and such  
9 a Section of the Act, but it may so happen that such  
10 an amendment will open a long debate on The Canada  
11 Shipping Act in regard to other points when the  
12 question is raised in the House, and that, for  
13 political reasons which are quite understandable,  
14 the amendment may be delayed to another session,  
15 because the Government does not wish to open up a  
16 debate in some other points in The Canada Shipping  
17 Act that might have nothing to do with the amendment  
18 that would be proposed.

19 The question of a special Bill with  
20 regard to pilotage had not been specifically recommend-  
21 ed by a great number of the agencies that have come  
22 to you, but I believe it is implicit and may be  
23 deduced from the brief and memoranda submitted  
24 to you.

25 As I have already say, my examination  
26 of the recommendations is divided into two parts:  
27 the first considering the administrative structure  
28 within the framework of pilotage, and that is what  
29 I have just completed. The second concerns the  
30 exercise of pilotage . . .





1 THE CHAIRMAN: Before you come to the  
2 second point, I think there is some dead wood in  
3 some Sections of the Act, that no longer apply because  
4 they are out of date.

5 MR. LALONDE: I am in completely in  
6 agreement with your lordship. You are raising a  
7 point which I had forgotten.

8 I trust, also -- and I hope it is not  
9 asking too much of the Commission -- that we shall  
10 have an Act that will be understandable by the average  
11 man in the street -- able to be read by the average  
12 man in the street.

13 I would suggest, to give the model  
14 that I trust will be followed to drafting the Act,  
15 that you look at the French legislation and the  
16 German legislation on pilotage. These laws, compared  
17 to these out-of-date Statutes, are masterpieces of  
18 simplicity and clarity. In some Sections in the  
19 French law on pilotage, there are clear definitions  
20 of things which are not explained in The Canada  
21 Shipping Act. There has been a clear definition of  
22 pilotage itself . . .

23 THE CHAIRMAN: You are setting up a  
24 whole system?

25 MR. LALONDE: It may be hoped that  
26 the Government will come back to this Commission and  
27 ask the Commission to draft the Bill!

28 In regard to the exercise of pilotage,  
29 I would like to say, on this question of compulsory  
30 pilotage, or the compulsory payment of pilotage dues,





1 and the question of exemption from pilotage -- the  
2 question is definitely within the confines of  
3 pilotage, and also the question of the financing of  
4 pilotage. There is the question of what is the  
5 responsibility of pilots, and the professional status  
6 of pilots, and the question of training pilots, or  
7 their retirement, and a certain number of different  
8 recommendations, of specific recommendations, for  
9 given districts, and during the next hour I will try  
10 to cover that ground. I won't say anything regard-  
11 ing the characteristics of the pilotage waters of the  
12 pilotage waters of the St. Lawrence and the Great  
13 Lakes.

14 In each district you have, I think,  
15 heard extremely competent naval pilots who took this  
16 Commission on trips in a fairly detailed fashion --  
17 and did something I didn't do myself -- and that  
18 is, to go the whole of the St. Lawrence with a  
19 pilot on board a vessel.

20 The first question that may be raised  
21 is to find out if it would be a good idea to change  
22 the traditional system in Canada regarding the  
23 fundamental question: Should pilotage be compulsory,  
24 or should we adopt the regulations as they exist  
25 at the present time, that is, of compulsory payment  
26 of pilotage dues left to the discretion of ships  
27 to use pilots or not as they wish?

28 At present the situation in Canada is  
29 not uniform, it is not a standardized one. You have  
30 certain cases where you have pilotage and where







1 payment is optional as long as certain basic conditions  
2 are met. For example, if an ocean-going vessel has  
3 a mate who is the holder of a licence B on the Great  
4 Lakes, he may transit freely through the St. Lawrence  
5 below a certain tonnage, or certain coastal vessels  
6 which are not submitted to the compulsory payment of  
7 pilotage dues; but in Canada we have certain areas  
8 where we have compulsory payment, and these areas  
9 are restricted. These are the areas provided by Part  
10 VIIIA of the Act; that is, the Great Lakes Basin, in  
11 which Districts 1, 2 and 3 of the Great Lakes are  
12 included. As regards the rest, we have provincial  
13 regulations provided by the Canada Shipping Act for  
14 the payment of pilotage dues purely and simply.

15 The compulsory payment was not subjected  
16 to lengthy discussion, nor was it a problem that  
17 was extremely contentious in the history of politics  
18 in Canada. The Royal Commissions of 1913 and of  
19 1918 as regards Halifax Harbour -- I just can't  
20 speak on this subject -- and the Royal Commission of  
21 1934 speaks of it on page 19 of its Report; in that  
22 of 1918 it speaks of it on page 108:

23 We have studied the present day situation  
24 in Canada on the basis of . . . (in-  
25 audible) . . . regarding responsibility,  
26 but . . . (inaudible) . . . after all  
27 the master is always responsible for  
28 his ship and it is not necessary to order  
29 him to impose compulsory payment, and  
30 we wanted to find out if compulsory pay-





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TORONTO, ONTARIO

French

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1 ment did not become the responsibility of . . . (trans-  
2 lation not clear). . . in the case of a collision  
3 or an accident.  
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1 Another argument was put forward, that  
2 if the ship's master was responsible for the vessel,  
3 he should be free to determine if he was, himself,  
4 to use the services of a pilot or not if he had to  
5 pay for such services. Nobody can force him to avail  
6 himself of such services.

7 And then the theory of the compulsory  
8 payment of pilotage dues was set forth as a mean of  
9 guaranteeing a certain reasonable earning for a pilot  
10 in a given district. Our arguments against the  
11 present system on that matter are indicated in our  
12 brief at paragraph 511 and onwards, and I think that  
13 we give the details regarding our stand and our  
14 argument. We go on so far as to say that if we  
15 examined that rule as compared to the first guiding  
16 principle for the reform of pilotage, to increase  
17 efficiency, or if we study this rule in regard to  
18 this fundamental principle, the present day rule is  
19 not logical, is inconsistent with safety.

20 To take an extreme example: if a ship  
21 loaded with dynamite or oil was going upstream on  
22 the St. Lawrence and it had never traversed the  
23 St. Lawrence, it could go to the Seaway without  
24 anyone doing anything about it so long as this ship  
25 complied with the rules provided by the Seaway Author-  
26 ity and the general bylaws in the field of navigation  
27 in Canada. Nobody could say that this was in  
28 conformity with the principle of safety.

29 As regards the principle of efficiency,  
30 I think this is the same problem again. Would it be





1 normal, even if you had a certain vessel navigating  
2 on the St. Lawrence -- you had a vessel that decided  
3 not to take a pilot on board in order to save money,  
4 and decides to go upstream on the Seaway and having  
5 no experience, will be called upon but perhaps will  
6 be able to do it, using a great deal more care and  
7 attention and time than somebody who had possibly done  
8 this three or four times.

9           Once again in regard to this principle  
10 or the viewpoint of efficiency, this rule would be  
11 inconsistent. There might be some vessels transit  
12 the Seaway without any pilot and would delay consider-  
13 ably traffic itself without being able to do anything  
14 about it.

15           The same thing would apply to Montreal  
16 Harbour.

17           Captain Ligtermoet and Captain Bedard  
18 referred to that in their evidence. They said they  
19 wanted vessels to try to get in and out as fast as  
20 possible. We don't want any delay because any delay  
21 will cause us a loss of money and also a loss of  
22 money to the shipowner itself.

23           So, from the point of view of safety  
24 and efficiency, the present day rule is not logical.  
25 I don't think there is a single case on the St. Lawrence  
26 or the Great Lakes where this rule would be necessary,  
27 or at any rate shared by compulsory pilotage rather  
28 than compulsory payment of pilotage dues.

29           In the second place, if in different  
30 areas pilots are not required, there is no reason why





1 we should impose this rule of compulsory payment of  
2 pilotage dues because the pilots would not receive  
3 sufficient income. There should be another subsidy  
4 which should be more or less similar to the subsidy  
5 in a given case. There should be a certain subsidy  
6 granted in a given area for pilotage, if the maritime  
7 traffic does not allow port pilotage on a normal  
8 basis.

9 Compulsory pilotage, at any rate, is  
10 the general rule in those countries: Denmark, in the  
11 Kiel Canal; and in the Suez Canal; and a great number  
12 of states of the United States; on the Panama Canal;  
13 in Italy; France and England.

14 Compulsory pilotage can be found at  
15 least in certain American states -- in Belgium,  
16 Sweden and Germany, and the rule of compulsory pilot-  
17 age has become upridding, and it seems it is the most  
18 logical rule and the most normal one at the same  
19 time.

20 With regard to the one problem of  
21 responsibility, the British Government has settled  
22 that problem as it has proposed, in England, a  
23 system of compulsory pilotage. It is quite evident  
24 as regards the question of responsibility. The  
25 legislation may take care of that problem if you  
26 want to restrict the responsibility either to the  
27 pilots themselves or the city, or maintain the respon-  
28 sibility of the ship regarding any error that may  
29 occur regarding the steering of that ship.

30 In other words, when we speak of compul-







1 sory pilotage, we do not mean by that that the pilot  
2 replaces the ship's master. What we mean is the  
3 following -- you are forced to hire an adviser.

4 THE CHAIRMAN: It is true of compulsory  
5 pilotage that they have in the Panama Canal. The  
6 contrary takes place: the pilot takes charge when  
7 he is the wheelsman and practically the whole team ---

8 MR. LALONDE: This is quite true,  
9 your lordship, but what I want to mention here, we  
10 do not see how this rule should become necessary.  
11 We only mentioned compulsory pilotage. We do not  
12 wish, simply, a change in the status in this pilot's  
13 task.

14 We also give the question: What could  
15 happen if, for any given reason, there was no pilot  
16 available? And we answer the same thing: What would hap-  
17 pen is what takes place at the present time on the  
18 Great Lakes. There is a provision for sailing in  
19 that case which allows the ship to transit the area  
20 without a pilot.

21 Now, for compulsory payment of  
22 pilotage dues and compulsory pilotage, once more the  
23 question is studied in detail. I don't think it  
24 would be necessary for me to add anything further.

25 Now, let us pass on to the question  
26 of exemptions from pilotage. This question is  
27 studied in the brief of the Federation of the  
28 St. Lawrence Pilots, Exhibit 671, and we have taken  
29 a whole chapter to study that problem. That is  
30 chapter 9, paragraph 354 and following, to the end of





1 the chapter.

2 You will find this description of the  
3 present situation regarding Quebec and Montreal,  
4 Cornwall and Kingston and also on the Great Lakes,  
5 which is similar to the one existing in Kingston at  
6 the present time.

7 I will divide this study on the question  
8 of exemption from pilotage into two parts: the first  
9 part which is related to the St. Lawrence per se,  
10 and the other related to the Great Lakes area.

11 As regards the St. Lawrence, your  
12 Commission has received a certain amount of briefs  
13 which studies the question of exemptions from pilot-  
14 age. I mention there compulsory pilotage or compul-  
15 sory payment of pilotage dues.

16 The Dominion Marine Association, Exhibit  
17 1,134, recommends, and I quote:

18 "Exemption to domestic ships in trade  
19 of a local nature without regard to  
20 tonnage restrictions." That is to say,  
21 recommends the exemption, a general  
22 exemption to all domestic vessels trad-  
23 ing local transport without any further  
24 qualification in mind.

25 The shipping company, Exhibit 1,345,  
26 asks not for a general exemption as asked by the  
27 Dominion Marine Association for local vessels or  
28 domestic vessels, but rather asks to cover British  
29 registry ships smaller than 4,000 tons net in Quebec.  
30 Increased exemptions to cover British registry ships







1 smaller than 4,000 net tons in the Quebec District.  
2 An exemption for Canada registry ships in the St.  
3 Lawrence, and no compulsory harbour pilotage in  
4 Montreal, and exemptions for Canadian registry ships  
5 in Quebec Harbour, if it is recommended that a system  
6 of harbour pilots be established.

7 As regards Imperial Oil Limited in  
8 its brief, Exhibit E-1132, a request is made for a  
9 special licence to officers and mates who are compet-  
10 ent in the Montreal and Quebec Districts.

11 I mention here, simply in passing,  
12 the representative of the Imperial Oil, when he gave  
13 his evidence stated that the case of the Quebec  
14 District was called a marginal case.

15 It is not my intention to deal with  
16 this particular matter, but I think that this should  
17 be studied by the Commission.

18 As regards this question the Feder-  
19 ation of the St. Lawrence River Pilots has recommended  
20 that exemptions from pilotage on the St. Lawrence  
21 shall nowhere be higher than the one existing in the  
22 Montreal District; that is between Montreal and Quebec,  
23 at the present time.

24 I will not attempt to talk about the  
25 history of exemptions in the St. Lawrence. I would  
26 like to refer to the brief that has been filed by  
27 ourselves before this Commission, which is the brief  
28 of the Federation of St. Lawrence River Pilots, in  
29 answer to the brief of the Dominion Marine Association  
30 and the brief prepared by the pilots in 1961. You will





1 find therein the whole history of the situation.

2 THE CHAIRMAN: Are you changing the  
3 subject matter?

4 MR. LALONDE: No.

5 THE CHAIRMAN: We will recess for ten  
6 minutes.

7  
8 --- A short recess.  
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1 MR. LALONDE: If I do not spend as  
2 much time on the question of exemptions from pilot-  
3 age dues as I have on other matters it is not because  
4 it is a question of less importance than others; it  
5 is not a case that the pilots consider this as a  
6 question of secondary importance. No, it is, rather,  
7 a question of primary importance, a question about  
8 which the Commission will have to hand down a decision.  
9 It is a question of major interest concerning naviga-  
10 tion on the St. Lawrence in particular.

11 I shall not spend considerable time  
12 discussing this subject for the excellent reason that  
13 the brief from the St. Lawrence pilots has gone  
14 into detail on this question. Secondly, Mr. Andrew  
15 Bedard and the pilots of the different districts  
16 have given evidence quite fully on the subject, and  
17 I refer you to their evidence. I merely wish to  
18 draw the attention of the Commission to certain  
19 points.

20 I wish to state that in regard to the  
21 first overriding principle that I stated, that is,  
22 a reform of pilotage, maritime safety and efficiency  
23 of the service, the exemptions now in force in the  
24 Quebec District, the Cornwall and Kingston Districts,  
25 should be reduced to the level of those now prevalent  
26 in the Montreal District.

27 As I was stating yesterday, this  
28 problem of safety does not arise merely in regard  
29 to whether a particular ship or a particular ship's  
30 master will be able to conduct the ship throughout







1 the length of the St. Lawrence without a pilot. There  
2 is no doubt whatsoever that a man who has experience  
3 in taking the necessary time, and provided the climatic  
4 and other conditions are as they should be, may  
5 circulate without a pilot in the greatest number of  
6 pilotage districts throughout the world, and the  
7 decision reached by the state in regard to imposing  
8 compulsory pilotage is merely dictated by public  
9 interest and is a general rule that should be applied.

10 The effects will not be to presume  
11 that we reach a certain conclusion; namely, such and  
12 such a ship will not be able to reach its destination  
13 excepting with a pilot aboard. When we speak of  
14 safety, not only have we to consider the physical  
15 conditions of the river at a given moment, not only  
16 have we to consider the capacity of the ship going  
17 up a navigable current or going down a navigable  
18 current with a map and radar equipment and all the  
19 necessary equipment. Pilotage has become a good deal  
20 more than a question of physical handling of a ship  
21 down a channel and avoiding a ship wreck.

22 It is necessary that the pilot, for  
23 a good many other reasons than these reasons, have  
24 knowledge of the local region, a thorough knowledge  
25 of the locality, knowledge of the locality at all  
26 times and gained over a long period of time.

27 Before the Commission there has been  
28 abundant evidence given to this effect, given by  
29 persons responsible for maintenance of the St.  
30 Lawrence channel, persons responsible for the radio-tele-





1 communication services. It is very easy, indeed,  
2 when we are comfortably seated behind a desk at  
3 home to say, "Well, there are lighthouses; there  
4 are navigation aids; there is radio help; there is  
5 radar aboard ship. You should practically be able  
6 to conduct a ship automatically." But it has been  
7 proven before this Commission time and time again  
8 that the lighthouses sometimes are not working,  
9 the navigational aids are not properly located for  
10 certain reasons -- perhaps they have been displaced  
11 by ice in the spring or in winter, or perhaps there  
12 is dredging work going on on the St. Lawrence at  
13 certain points, and the contractors have displaced  
14 the navigational aids without advising the author-  
15 ities. And it has happened, too, that telecommunica-  
16 tion messages are not as rapidly conveyed as might  
17 be expected.

18           Also, what has happened in the past  
19 is that certain messages have not been transmitted,  
20 because it was not possible to transmit them. On  
21 the St. Lawrence what we have had have been cases  
22 where it has been impossible to communicate rapidly  
23 from one ship to another particularly, yet this is  
24 essential. Another thing that has been lacking has  
25 been knowledge of French to get in touch with the  
26 numerous masters of small vessels going up and down  
27 the St. Lawrence, going up and down the Seaway, and  
28 not only is this knowledge of French essential to  
29 communicate with the small vessels, but a knowledge  
30 of French, a fluent knowledge of French, to be able







French

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1 to listen to messages that might be exchanged in a  
2 given region in French.

3 When we speak of safety, no one is  
4 attempting to claim that a competent ship's master,  
5 an experienced ship's master is not going to be  
6 able to pilot his ship. The state in no country  
7 adopts legislation in which it assumes that a ship's  
8 master won't be able to pilot his ship, but the  
9 state has concluded in most countries that no one  
10 may be guaranteed a competent ship's master or  
11 captain aboard ship at all times.

12 Secondly, this competent and capable  
13 captain will not be on his bridge 24 hours a day.  
14 Captains and ship's masters and officers aboard ships  
15 have administrative duties as well as their job of  
16 handling the ship. The ships have now become -- it  
17 was so in former times, I am sure -- but today it is  
18 more the case a ship has become an enterprise that  
19 must be administered. With the rapidity of circula-  
20 tion of ships, there are a good many affairs to be  
21 handled aboard ship while ships are in harbour; that  
22 is, that must be handled by the captain.

23 This question of safety once more is  
24 a problem that is a problem to be viewed from general  
25 and not specific or detailed terms with regard to  
26 such and such a captain or such and such a captain  
27 aboard such and such a ship.

28 Rather than providing for a system of  
29 inspections that will only lead to putting a super-  
30 visor aboard each ship to see whether the person who





1 is truly competent is fulfilling his duties aboard  
2 as he should, and not in some other duties, or whether  
3 that person is perhaps resting after having worked  
4 a normal turn of duty, the state has come to the  
5 conclusion it is better to have a simple rule, a  
6 uniform rule, applicable in most cases to all ships  
7 above a certain minimum tonnage.

8           The second reason which is still  
9 derived from the overriding principle is the efficiency  
10 of the service. We have tabled before this Commission  
11 what the costs in delay of a ship through the Lakes  
12 may be per day. I have tabled a stenographic  
13 transcript of the Upper Lake Company given before  
14 the Norris Commission where the company, through its  
15 accountants, had evaluated the delay costs of a  
16 ship which was moored for one reason or another, and  
17 the evaluation varied from \$5,000 to \$9,000, depend-  
18 ing on the ship. This was a daily rate, and I  
19 refer the Commission to the exhibit of the Shipping  
20 Federation, Exhibit 953, where in speaking of ocean-  
21 liners whose capacity and number of trips between  
22 the two points was less considerable than in the case  
23 of lakes vessels, these ocean-liners, according to  
24 the New York Shipping Association in Exhibit 954,  
25 state the costs at \$4,000 a day where they were  
26 kept berthed to a quay, for instance, during the  
27 stevedore strike in New York.

28           This demonstrates the importance from  
29 an economic viewpoint of an delay arising and the cut-  
30 ting down of efficiency of the maritime service.





1 To summarize, we might say that the  
2 last day's travel by a liner in the case of an  
3 ocean-liner is estimated at \$4,000 a day, and from  
4 evidence we have it has varied between five and  
5 nine thousand a day in the case of lake steamers.  
6 This is a most substantial loss -- a most substantial  
7 loss, not only for the liner which is delayed as  
8 in the St. Lawrence Seaway, but also for any vessel  
9 coming behind and which will be delayed until the  
10 delay has been overcome.

11 This economic aspect has been dealt  
12 with frequently in the course of the evidence, and  
13 I do not need here, I think, to quote at length from  
14 passages of this evidence. I wish, merely, to refer  
15 here to the attitude taken by the state on the  
16 St. Lawrence with regard to the attitude adopted by  
17 private entrepreneurs when their own harbour instal-  
18 lations are at issue.

19 I refer, for instance, to the evidence  
20 given before this Commission when it was aboard the  
21 C.D. HOWE, Volume 2, CDH, page 97, the evidence of  
22 Captain Severson, the President of Quebec Cartier  
23 Mining Company, who, as you know, controls and owns  
24 Port Cartier. The counsel of the Commission asked  
25 him the following questions:

26 "Q. As you know in Port Cartier there  
27 is compulsory pilotage for all ships  
28 going into this port. Would you tell  
29 the Commission why your company has  
30 decided to have a pilot or docking







1 "master in this place?

2 "A. Well, the movement of the ships  
3 with precision, speed is required,  
4 of course, because any delay is very  
5 expensive. Secondly, we don't want the  
6 ships damaged or we don't want damage  
7 in the harbour. So, I think it is to  
8 be able to move the ships safety and  
9 fast."

10 I would limit my remarks to this quot-  
11 ation from a person holding an important post in  
12 private enterprise, a person who certainly represents  
13 a major interest similar to those met with at  
14 Seven Islands or Baie Comeau.

15 You will note that whether it be at  
16 Port Cartier, Seven Islands or Baie Comeau, it has  
17 been established at least in the case of wharves  
18 belonging to private companies, there must be a pilot  
19 aboard each ship which is moored at this wharf. In  
20 Port Cartier, pilotage is compulsory for all ships  
21 over 3,000 tons.

22 My question is the following one: How  
23 is it then that if a private entrepreneur whose  
24 interests are obviously based on the profit motive,  
25 and who also is anxious that costs be reduced to a  
26 minimum, should be the lowest possible, how is it that  
27 these private interests have concluded that efficiency  
28 and safety require compulsory pilotage?

29 They have decided on compulsory pilot-  
30 age for a great majority of ships as shown in the





1 evidence of Mr. Severson, whereas along the St.  
2 Lawrence Seaway and the St. Lawrence River this is  
3 not the rule that is applied. What I am saying  
4 then is the following: the reasons for safety and  
5 efficiency justify a cutting down in the exemptions  
6 that now exist along the St. Lawrence River.

7 I add a further reason, a third  
8 reason, and this reason is justice and equity. If  
9 the rule is for compulsory pilotage aboard our ships  
10 above a certain minimum tonnage, the minimum being  
11 set generally for some reason or other, for reasons  
12 of safety and efficiency -- that is, that the ships  
13 have a low draught and other reasons -- but above  
14 this minimum, if pilotage be compulsory, this is  
15 because in practice what will happen will be that  
16 beyond the framework provided by the state, beyond  
17 what is provided for by the state, there will be  
18 private pilots developed -- private pilotage.

19  
20 -  
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30







1                   There is abundant proof of this in  
2 the evidence, and I would refer the Commission to  
3 Volumes 20, 70, 73, 75, 79, 76, 98-A, 96, 97 and 102.  
4 There have been abundant references therein to this  
5 particular situation.

6                   You have already had in evidence before  
7 this Commission numerous cases where it has been  
8 . . . (translation not clear) . . . was doing pilot-  
9 age to Montreal. You have also heard evidence before  
10 this Commission where the officers -- mates and  
11 masters -- who were in surplus number, upon the  
12 opening of the St. Lawrence Seaway, which allowed  
13 for the transit of larger vessels, took the old ship  
14 channel which allowed them to set aside a small ton-  
15 nage in the olden days. Captain Bodenseck referred  
16 to that, amongst others.

17                  I might also refer to the representatives  
18 of the Upper Lakes. Captain Deschettes referred  
19 to the use of what were called relief masters.

20                  Reference was also made to these time  
21 agreements, a copy of which has been filed as  
22 Exhibit 1,143, and which allows the signing of one  
23 master or one mate on any vessel at the same time.  
24 All of that takes place.

25                  Well, in practice, you have, because  
26 of the provisions of the present day Canada Shipping  
27 Act, pilots who become competent pilots similar to  
28 Captain (?) who has testified before this Commission,  
29 who was under employment or who was the holder of a  
30 licence because of this special exception made in the





1 bylaws in this respect; in fact, all the lakers who  
2 were taking pilots beforehand in the old ship's  
3 channel of the St. Lawrence -- how come that practic-  
4 ally from one day to the next, or overnight, they  
5 have become so competent to undertake the pilotage,  
6 unless they have succeeded the traditional stage in  
7 training. People who, for all practical purposes,  
8 act as pilots on board, as fifth, tenth or twentieth  
9 officers, or who have the name of relief masters.  
10 In practice, these men who fill the duty of the pilot.  
11 However, these people are not submitted to any of  
12 the requirements which are submitted to the licensed  
13 pilots.

14 I simply refer to this as one of the  
15 other matters, and I refer the Commission to the  
16 exhibits already filed, and particularly to Exhibits  
17 755, 964, 1,139, 1,142 and 1,349.

18 You will recall, particularly, the  
19 correspondence between the Department of Transport  
20 and the Pittsburg Steamship Company. The Minister of  
21 the D.O.T. stated: "Well, I believe they are using  
22 pilots on board -- persons on board who are not  
23 pilots and who fulfil the duties of a pilot," and the  
24 administration of the D.O.T., who accepted these  
25 people said: "Right; but these persons are being  
26 used as a fourth extra mate on board, and they are  
27 signed under the Articles with the result that the  
28 D.O.T. and the Pilotage Authority are unable to do  
29 anything to settle the matter."

30 In practice, we finally get the indirect





1 production of the so-called certificate of "master  
2 pilot" which existed in olden days and which has  
3 become completely obsolete, but which still exists  
4 in England for very low tonnage vessels, and which  
5 would be assimilated to our own coastal vessels in  
6 the St. Lawrence.

7 In fact, we maintain that the exper-  
8 ience up till now has shown that the exemption system  
9 allows for the establishment, outside of this system  
10 regulated and directed and covered by the public  
11 authority, the establishment of a second pilotage  
12 system which is not submitted to any public regul-  
13 ation and upon which it is practically impossible to  
14 exercise control regarding the number of people who  
15 make use of the services of these people. In fact,  
16 in Canada we have had this system of master pilots  
17 on the Great Lakes and up to Montreal.

18 You will recall the evidence to the  
19 effect that many thousands of pilot certificates had  
20 been issued, and in the final analysis the Pilotage  
21 Authority at a given time had to consider as being  
22 useless all these certificates that had been issued.

23 Some people are going to say: "Well,  
24 the lakers have no more casualties than ocean-going  
25 vessels." Well, in the first place, this hasn't  
26 been proved, and, secondly, it is impossible to prove  
27 for the simple reason that it has been established  
28 before this Commission that there is no serious  
29 system of control regarding the incidence of casualties  
30 that happened to Canadian registered vessels -- and I







1 refer to the evidence of Captain Slocombe in Ottawa  
2 -- and also the example of the casualty, as I indic-  
3 ated to you during my cross-examination, when I asked  
4 him to cross-check and he said that, in fact, there  
5 was no such accident or casualty that had been record-  
6 ed in their files.

7                   Insofar as the St. Lawrence Seaway  
8 is concerned, the manoeuvre of ocean-going vessels  
9 is, of course, a manoeuvre that is different from  
10 that of a laker, and the masters and mates of lakers  
11 have certainly a remarkable experience regarding the  
12 operation of their vessels and the approaches to  
13 locks and berths along the Seaway and within the  
14 channel; but the pilot has another duty to perform,  
15 and once more it has to do with those locks and  
16 his knowledge of the waters where the vessel is  
17 transitting in the river between Montreal and King-  
18 ston, where there is a canal and a few locks and  
19 many lakes and, on a great part of the St. Lawrence,  
20 of course, it is very difficult to steer a vessel  
21 because it has special difficulty and requires  
22 special talents; in fact, the extra talent on the  
23 Seaway has a special element as compared to all the  
24 other channels throughout the world, almost without  
25 exception.

26                   We have given as evidence the situation  
27 in different parts of the world, and I would refer  
28 the Commission to the transcript at pages 1,193 to  
29 1,194; and I would ask the Commission to look at the  
30 list filed by myself, Exhibit 1,415, which gives a





1 list of vessels, or, rather, the passages of coastal  
2 vessels at St. Lambert Lock in 1963; and I would  
3 like to recall that there is a certain amount of low  
4 tonnage vessels, especially oilers, which transit  
5 quite often this distance between Montreal and  
6 Toronto, and these vessels do many trips per year.  
7 However, we exclude these small ships. We have the  
8 situation where, according to the information, we  
9 have an average of ten trips per year. We are not  
10 talking about return trips -- only ten one-way trips  
11 in the Seaway for the domestic vessels, if you  
12 eliminate these thirteen small vessels which often-  
13 times navigate between Montreal and Toronto; I  
14 suggest an average of ten, but there are certainly  
15 some that do twenty trips; but there are a good number  
16 of them that do less than ten trips; and how can we  
17 contend that a ship transitting such busy waters  
18 and such difficult waters as those of the St. Lawrence  
19 from Montreal to Kingston will have the necessary  
20 knowledge and the local knowledge necessary to tran-  
21 sit without any pilot these waters, with perhaps  
22 three or four or five trips per season.

23 It has been argued in support of  
24 exemptions on the basis of the capacity of these  
25 vessels and the possibility of having these vessels  
26 being manoeuvred by the personnel, but that we should  
27 get the lakers on the Canadian side . . . (trans-  
28 lation not clear) . . . exempted from payment of  
29 pilotage dues.  
30







1 We see again, in accordance with the  
2 international agreements of Canada, such a provision  
3 cannot be supported.

4 I would like to refer the Commission  
5 to an excellent article published in the Canadian  
6 Bar Association Review, Volume 39, No. 4, December  
7 1961, pages 567 to 604, where the author of this  
8 article talks of the history of the traditions and  
9 the history of legislation on the St. Lawrence, and  
10 the author reached the conclusion that particular  
11 exemptions cannot be granted to Canadian vessels as  
12 compared to American vessels cannot be maintained  
13 and the thesis that had been supported previously on  
14 this matter would not be valid. In fact, it was  
15 what took place. There was between Cornwall and  
16 Montreal, before the establishment of the compulsory  
17 payment of pilotage dues, any vessel was free to  
18 transit these waters, but as soon as they had compul-  
19 sory payment of pilotage dues there it was said they  
20 must accept Canadian lakers. They were not able  
21 to restrict the exemption to Canadian vessels and  
22 this exemption was also extended to American lakers  
23 which, after all, starting at St. Regis were in  
24 exclusively Canadian waters.

25 I think, so far as I am concerned,  
26 exemptions which are part of the present Commonwealth  
27 coastal vessels from Montreal, cannot be given to  
28 those vessels if the American authorities wanted to  
29 make a leading case out of the whole subject matter;  
30 and that the exemptions granted at the present time





1 to vessels of the Commonwealth, or Canadian vessels,  
2 because of the international agreements of Canada  
3 could not be maintained against all the requests made  
4 by American shipowners.

5 In fact, there is additional exemptions  
6 on the St. Lawrence extended to Canadian vessels which  
7 automatically opens the door to exemptions to any  
8 type of vessel transitting the St. Lawrence.

9 In fact, I would like to say a few  
10 words with regard to the evidence that has been  
11 given by the Dominion Marine Association before this  
12 Commission. We have not heard any mate or any ship's  
13 master who has had recent experience of navigation  
14 on the St. Lawrence. We have heard from the President  
15 of the Dominion Marine Association who stated he  
16 had no maritime experience. He is simply an  
17 administrator. We heard from Captain Fisher who  
18 stated he had a very slight experience on the St.  
19 Lawrence below Montreal and who, himself, is a shore  
20 captain since 1948. We have Captain Milner who  
21 stated he had navigated for a year and a half as  
22 first mate, but who has been working on the land  
23 since 1938. You have Captain Bedard, who himself  
24 has not navigated ever since 1955 and, finally, you  
25 have heard Mr. Bruce Angus who stopped navigation  
26 back in 1934.

27 I understand that these represent  
28 the companies that have come to give evidence before  
29 this Commission and have stated that if they had  
30 exemptions they could navigate more without availing





1 ourselves of the services of pilots on the St. Lawrence  
2 and I do not even doubt they would be able to do so.

3 In order words, they would not use  
4 licensed pilots in the formal sense of the word. I  
5 know full well what is going to happen. What I say  
6 is when we come to the new point of administration,  
7 we are responsible for maritime because we have not  
8 heard the viewpoint of people who truly have to  
9 exercise the duty under present day conditions.

10 We may wonder why the pilots have been  
11 asking for a reduction in exemptions in the Montreal  
12 District itself, which is one of the most difficult  
13 pilotage districts in Canada.

14 In fact, there are traditional rights  
15 that have been granted to these small passenger  
16 vessels of the C.S.L. and for a good many year, and  
17 these vessels are doing their trips. At any rate,  
18 these vessels already have on board two pilots of the  
19 C.S.L. company doing the services in Montreal and  
20 the Saguenay.

21 So far as the other small vessels  
22 are concerned, they are vested to the traditional  
23 rights that would be gained, but we thought could  
24 be maintained without doing harm for safe and efficient  
25 navigation.

26 As regards the Great Lakes above  
27 Kingston, this Commission has heard many recommend-  
28 ations. The Shipping Federation asks for elimination  
29 of pilotage in unrestricted waters, that is on the  
30 Great Lakes itself. The Toronto Harbour Commission







1 asks that pilotage not be compulsory in Toronto Harbour.

2 The Hamilton Harbour Commission asks  
3 that pilotage be compulsory in Hamilton Harbour, but  
4 they should have some harbour pilots instead of licensed  
5 lake pilots. The pilots of District No. 3 ask  
6 for compulsory pilotage of the Great Lakes, unless  
7 they have special licences. In particular, this  
8 organization asks that these licences require  
9 knowledge of the waters upon which the mate or  
10 masters obtain licences.

11 Captain Norman Johnson asks for the  
12 adoption of exemptions and the establishment of four  
13 districts which would cover practically all of the  
14 Great Lakes.

15 The Corporation of the Great Lakes  
16 Pilots did not make any specific recommendation on  
17 this subject matter. You have heard different indiv-  
18 idual opinions of pilots who have testified before  
19 this Commission on this matter.

20 I will then be satisfied to make a  
21 few comments regarding the proposals made to this  
22 Commission. First of all, I would like to mention the  
23 fact that the Lake pilots are used even by vessels  
24 who have mates who are holders of licences Class B.

25 You have had some exhibits filed  
26 before this Commission and also evidence in that  
27 matter.

28 In the second place you are also told  
29 that ocean-going vessels navigating on the Seaway  
30 are short-staffed in particular whenever they are





1 navigating in restricted waters. That is between  
2 , Montreal and Kingston, or in the Welland Canal, and  
3 that navigation during these periods leaves a heavy  
4 burden on the master as well as the mates.

5 I think this is a phenomena that is  
6 recognized by all, but navigation for ocean-going  
7 vessels represent difficulties because of this very  
8 lack of staff and the fact that the vessels, even  
9 when they are holders of licences Class B, still  
10 avail themselves of the services of a pilot, must  
11 also be related to this lack of staff and the idea  
12 that the quartermaster should take a little rest and  
13 not be subject to the same tension as if he were  
14 navigating on restricted waters is, perhaps, an  
15 explanation of the practice that has been followed.

16 In the third place, I believe that  
17 the brief that has been submitted to this Commission  
18 and the evidence refutes the insinuations that pilots  
19 had nothing to do when piloting through restricted  
20 waters. We heard the witnesses state they have  
21 to put their feet up.

22 We had the impression, indeed, the  
23 poor pilots in that water put their feet up and  
24 twiddle their thumbs.

25 You have heard evidence with regard  
26 to specific trips referred to. No one has claimed  
27 that piloting on Lake Ontario was the same as pilot-  
28 ing within the Welland Canal, or piloting through  
29 Lake Erie would be the same thing as piloting along  
30 the Welland Canal.







1 I think the witnesses have shown what  
2 duties were performed by pilots when they were perform-  
HH2 3 ing on these Lakes.

4 The question of safety is always the  
5 overriding principle and takes first place before  
6 efficiency. The present system seems reasonable,  
7 subject to certain adjustments. I refer you to the  
8 recommendations of the Lake Superior Pilots' Assoc-  
9 iation requesting specific knowledge of the waters  
10 through which the ship is travelling, and a proper  
11 examination of the mates before they enter the St.  
12 Lawrence Seaway. You have had a number of experiences  
13 described and the instructions given by the Shipping  
14 Federation to its ships telling them that they have  
15 to follow these instructions and they would not have  
16 pilots, and the first thing they found was that the  
17 instructions given were in error, and if the master  
18 had followed these instructions, he certainly would  
19 had led his ship into a disastrous accident.

20 I also point out the contradiction in  
21 the attitude adopted by the Hamilton and Toronto  
22 Harbours. Hamilton gave evidence here that local  
23 pilots were absolutely an essential, because of the  
24 damage that is caused to ships when these ships go  
25 to berth, and damage is done to the wharf; whereas  
26 Toronto claims pilotage is not necessary. They  
27 would have pilots available for ships who will want  
28 to use pilots, but pilots are not needed in Toronto Harbour.

29 I maintain the rules of the road along  
30 the Lakes are different. They are different from the  
International rules.





1 They are different from the inter-  
2 national rules, and even with improvements and  
3 changes that have been brought in, these rules would  
4 still be different from those that prevailed inter-  
5 nationally.

6 I believe it has not been proven at  
7 all that the system of harbour pilots that is recommend-  
8 ed by the Shipping Federation in particular would be  
9 more economic than the present system. First of all,  
10 I am absolutely convinced that there would have to  
11 be lake pilots for ocean-going vessels, because  
12 there would be a greater number of ocean-going vessels  
13 coming into the Lakes. We must, therefore, provide  
14 these services.

15 Furthermore, in the present rules,  
16 you should consider the cost of pilot boats, or at  
17 least for the conveyance of a pilot aboard a tow  
18 ship within each harbour. At the present time there  
19 are boats conveying pilots which work both ways --  
20 which travel both ways. That is, at Cape Vincent  
21 they take a lake pilot and a river pilot, and the  
22 same thing happens; they exchange the river pilot  
23 for a lake pilot at Cape Vincent.

24 You then come to a system under which  
25 you have this service continued and you will have  
26 additional costs for ships conveying pilots in each  
27 harbour. Unless a system of pilots is established  
28 for each harbour, you will also have -- and all this  
29 seems to me inconceivable -- the occasional need of  
30 conveying pilots from one harbour to another along the







1 Lakes.

2 Finally, there is absolutely no doubt  
3 in my mind that shipowners will have to face pilot-  
4 age costs that would be markedly higher within United  
5 States harbours if they are to obtain the establish-  
6 ment of an exclusive harbour pilot system. I suggest  
7 simply that you consult the pilotage dues in the United  
8 States tabled before this Commission for the  
9 different United States coastal harbours pretty well  
10 everywhere, and I put the question to you: Do you  
11 think that the pilots in Chicago Harbour are going  
12 to agree to work for much lesser dues than pilots  
13 in Cleveland or Rochester, or tariffs much lower than  
14 those paid to coastal pilots?

15 I think that all these questions must  
16 be weighed before we adopt the recommendation of the  
17 Shipping Federation. We are far from being convinced  
18 that the harbour pilot system would be more economic  
19 than the present one. It seems to me very likely  
20 the system of harbour pilots would be a good deal  
21 more expensive because of the increased cost to  
22 shipowners on the United States side.

23 I would like to add a further point  
24 to my argument. This is, perhaps, a more selfish  
25 point: there is an advantage at  
26 the present time for Canadian pilots and Canadians  
27 as a whole, and I ask you to compare the importance  
28 of Canadian harbours on the Great Lakes to the import-  
29 ance of the United States harbours on the Great Lakes.  
30 My conclusion is put harbour pilots everywhere along







1 the Lakes. What would be the result? You would  
2 have Canadian pilots in Toronto and Hamilton, at the  
3 Lakehead, but you would have United States pilots  
4 in a vast number of harbours on the United States  
5 side along the Lakes, and even according to the  
6 proposal of the Shipping Federation in the case of  
7 small Canadian harbours, apart from the Lakehead and  
8 harbours on Lake Ontario, these small harbours will  
9 be served by United States and not by Canadian pilots.

10 The result will then be that the  
11 proposal of the Shipping Federation will be shown to  
12 be most disadvantageous over the short term and even  
13 over the long term to Canadian pilots.

14 I have been rather critical of the  
15 Department of Transport and the Pilotage Authority  
16 yesterday. I would like, however, perhaps to take  
17 advantage of this point of my argument to point out  
18 that the understanding reached between Canada and  
19 the United States is probably an understanding that  
20 is most advantageous to Canadian interests. I would  
21 like to add, finally, that it is very easy perhaps  
22 to say, "Let the United States look after their own  
23 problems and we Canadians will look after ours, and  
24 let's not pay any further attention to the problem,"  
25 but even if this is not within the terms of refer-  
26 ence of this Commission, this is a problem that can-  
27 not be ignored by the Commission.

28 There is a problem on the United  
29 States side with regard to constitutional jurisdiction  
30 in this matter.





1 If pilotage on the Great Lakes is  
2 limited for the greater part to harbour pilotage,  
3 it is true in the United States under the Constitution,  
4 federal authorities are those with the jurisdiction,  
5 but this authority has been delegated, or at least  
6 left to the States which previously held such author-  
7 ity. It seems to me perfectly clear that there will  
8 then be pressures exercised by the States on the  
9 United States federal authorities with the view to  
10 themselves controlling pilotage in the same way as  
11 along the coast.

12 Finally, I would like to mention the  
13 argument of the Shipping Federation to the effect  
14 that pilots are absolutely not necessary on the  
15 Great Lakes and on non-restricted waters. In my  
16 view, this is an argument that has not been proved  
17 at all. This is merely a statement.

18 I would like to add that it would  
19 seem there had not been found a single master or a  
20 single mate of an ocean-going vessel who has been  
21 willing to come and give evidence before this  
22 Commission either at Quebec or in Montreal or in Toronto  
23 or St. Catharines or in Ottawa, and yet ocean-going  
24 vessels have come to Canada this year, and I fully  
25 believe that the persons who really are in a  
26 position to know whether, yes, or no, they need  
27 pilots for their vessels, are certainly those who  
28 guide the ocean-going vessels coming to Canada and  
29 coming on the Great Lakes waters.

30 Connected with this question of exemptions







1 and following this one, I would like to go to the  
2 pilotage districts and the definition of these pilot-  
3 age districts. I mentioned earlier today the  
4 need for inserting into the legislation a clear  
5 definition of pilotage districts, and the pilotage  
6 district constitutes, we might say, a judicial entity  
7 defined by the state within which there is imposed  
8 a particular system applicable to vessels circulating  
9 in this district with regard to the use of a pilot.

10           There is the question of privately  
11 owned harbours; a question of the different districts  
12 along the St. Lawrence and the Great Lakes. Insofar  
13 as private harbours are concerned, we have adopted  
14 as our position, our stand, that pilotage should  
15 certainly be subject to the same regulations as in  
16 other harbours. The private harbour, despite its  
17 name, is still a service that is open to a good many  
18 vessels. Ships from different countries and under  
19 different registries, ships serving different purposes,  
20 and we believe all the general arguments in regard  
21 to pilotage that we have mentioned are applicable  
22 in this case as in the case of other harbours.

23           Insofar as the Quebec District is  
24 concerned, we have asked that the legislators adjust  
25 the limits of the Quebec District below Quebec.  
26 We have suggested that a clear definition -- in  
27 our own brief, we suggested a clear definition, in  
28 paragraph 616 of Item 671.

29           As to the part below Quebec, we believe  
30 that the present system of a joint part, applicable





1 both in the Montreal and Quebec Harbours should  
2 apply. I will deal with the Quebec Harbour pilots  
3 later.

4 Insofar as the Montreal District is  
5 concerned, the pilots have recommended the status  
6 quo, and we believe that the present system is the  
7 system that is probably the one that is most advantag-  
8 eous from the viewpoint of workload of pilots, and  
9 from the viewpoint of service efficiency.

10 Finally we would add, also, at the  
11 level of cost to the users of the service; namely,  
12 the shipowners.

13 The Shipping Federation, as you know,  
14 has recommended the division of the Montreal District  
15 into two districts; a district that would be called  
16 Montreal Harbour, extending up to the limits below  
17 Sorel Harbour, and another district that would  
18 extend from Sorel to Quebec. The pilots have opposed  
19 this proposal.

20 I would like to point out that this  
21 is not a financial issue nor a question of staff  
22 to the pilots. In fact, whether it be the Shipping  
23 Federation or ourselves, I think the problem has not  
24 even been raised before this Commission. In practice  
25 we may imagine the same pilotage dues adjusted  
26 according to distances, and no one will suffer from  
27 decrease in revenue. It would simply be a matter  
28 of assigning more personnel to a given section than  
29 was previously the case; that would be the only  
30 result.





1 Obviously, the proposal would have  
2 effects on the workload point of view. In regard  
3 to the workload, the pilots in Quebec and below --  
4 these pilots, instead of getting off as they now do  
5 at Three Rivers, would have to go down as far as  
6 Sorel, and the result would then be an extension of  
7 the length of the trip they would be piloting. An  
8 item has been tabled under 962 in this regard, and  
9 I would like tomorrow morning, when we shall have  
10 found this exhibit, to refer to it, if possible.

11 THE CHAIRMAN: We shall now adjourn  
12 until tomorrow morning at ten o'clock.

13  
14 --- Whereupon the hearing was adjourned until ten  
15 o'clock a.m., Friday, the 8th day of January,  
16 1964.  
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# ROYAL COMMISSION

ON

## PILOTAGE

### HEARINGS

HELD AT  
OTTAWA  
Ontario

VOLUME No.:  
158

DATE:  
8 January, 1965

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1                                    ROYAL COMMISSION ON MARINE PILOTAGE

2                                    Proceedings of the hearing held  
3                                    within the Supreme Court Building,  
4                                    Wellington Street, Ottawa, Ontario,  
5                                    on Friday, the 8th day of January,  
6                                    1965.

7                                    THE COMMISSION:

8                                    The Honourable Mr. Justice Bernier -- Chairman  
9                                    Mr. Robert K. Smith                                    -- Member  
10                                    Mr. Harold A. Renwick                                    -- Member  
11                                    Mr. Gilbert Nadeau                                    -- Secretary

12                                    -----  
13                                    COMMISSION COUNSEL:

14                                    Mr. Maurice Jacques

15                                    -----  
16                                    PRESENT:

17                                    Mr. J. Brisset, Q.C.                                    -- for the Shipping Feder-  
18                                                                       ation of Canada  
19                                    Mr. Marc Lalonde                                    -- for the Federation of  
20                                                                       St. Lawrence River  
21                                                                       Pilots; Corporation of  
22                                                                       the Lower St. Lawrence  
23                                                                       Pilots; Corporation of  
24                                                                       the Montreal Harbour  
25                                                                       Pilots; Corporation of  
26                                                                       the Mid-St. Lawrence  
27                                                                       Pilots; Corporation of  
28                                                                       the St. Lawrence River  
29                                                                       and Seaway Pilots; Cor-  
30                                                                       poration of the Upper  
   St. Lawrence Pilots  
   Mr. R. Langlois                                    -- for the Canadian Merchant  
                                      Service Guild  
   Mr. J.J. Mahoney                                    -- for the Dominion Marine  
                                      Association  
   Mr. R. Macgillivray                                    -- for the Department of  
                                      Transport







A R G U M E N T

PAGE

Continuation of argument as presented by  
Mr. Lalonde

20,950

As presented by Mr. Brisset  
(and continuing throughout)

21,025

I N D E X   O F   E X H I B I T S

N O .

D E S C R I P T I O N

P A G E

Addition to      Additional statistics filed  
Exhibit 1421      from the St. Lawrence Seaway  
Authority

21,075





1 ---Upon commencing at 10.00 a.m.

French 2 MR. LALONDE: Your lordship and com-  
3 missioners, one of my friends, a shipowner, has been  
4 threatening to impose a vote of closure. In con-  
5 sequence of this threat of closure being submitted  
6 to the Commission I will assert my best efforts to  
7 cut down the rest of my plea, and state it as briefly  
8 as possible. Even if there was a threat of the  
9 passing of a vote of closure I don't know that it  
10 would be accepted, but I am beginning to be aware  
11 of the fact that my plea has been very extensive.

12  
13 THE CHAIRMAN: (Remark not interpreted.)

14  
15 MR. LALONDE: Yesterday I referred,  
16 with regard to the pilotage corporations to the  
17 point -- it is a trouble point -- of the legality  
18 of provisions under which the member, once accredited  
19 to a corporation, may not be able to withdraw from  
20 it while he has his pilot's licence; and the second  
21 point was that, apart from the legality, it doesn't  
22 matter what . . . (translation not clear) . . .  
23 Under The Companies Act I draw the attention of the  
24 Commission to Section 145, paragraph 2, subparagraph  
25 (f). Under that section it is stated that companies  
26 when incorporated must table a brief with bylaws,  
27 and Section 145(2) -- I quote the English text of  
28 this:

29 ". . . and, more particularly, setting  
30 forth bylaws upon the following matters..."





1 French

2 And I quote subparagraph (?):

3 ". . . Where or how members may  
4 withdraw from the corporation . . ."

5 This, in my view, leaves no doubt whatever that under  
6 the federal Companies Act there may be regulations  
7 within a corporation -- regulations that would permit  
8 that a member may or may not withdraw from the  
9 corporation subject to certain conditions.

10 Once this point has been considered we  
11 should consider the pooling. I think that this  
12 second point should create no difficulties whatsoever  
13 at the legal level. It is purely a free decision  
14 reached by a person to dispose of himself as he wishes.  
15 I think that a member should be dissociated from the  
16 Association, and we might compare it to professional  
17 associations where the associations agree to put  
18 some of the professional revenues into a common  
19 fund and to share certain administrative expenses.

20 THE CHAIRMAN: Would it not be like in  
21 the case of any contract . . . (translation not clear)  
22 . . . he doesn't want revenue to be paid to the cor-  
23 poration . . . (translation not clear) . . . and if  
24 the individual then leaves the corporation may then  
25 take steps to collect damages?

26 I wonder whether the pooling is something  
27 that is a good idea. Why should it not be in the  
28 regulations or bylaws?

29 MR. LALONDE: I am in agreement, your  
30 lordship. I think, indeed, that a provision concerning







1 French

2 pooling of a universal character is indicated, whether  
3 for salaried or non-salaried pilots, and they cer-  
4 tainly should be covered by such a provision, if there  
5 is any doubt.

6 With regard to the future, I come back  
7 to the question of exemption from pilotage, and I  
8 refer to Item 1141, the confidential brief submitted  
9 to this Commission having to do with salaries and  
10 fringe benefits of lake ships' masters.

11 My colleague Mr. Mahoney informs me that  
12 the second item concerning fringe benefits refers to  
13 a single company -- involves a single company --  
14 whereas the first exhibit with respect to such salar-  
15 ies would, indeed, constitute a full analysis sub-  
16 mitted by various companies.

17 I raise this in respect to exemptions  
18 because I note in the second exhibit -- 1141 -- the  
19 substantial sum created for pilotage aboard lake  
20 ships of a tonnage of 2,500 to 8,000 tons. Now,  
21 if we think of ships above 8,000 tons we find there  
22 are cases where the average pilotage -- the average  
23 sum -- paid for pilotage was in the first case over  
24 a thousand dollars, in the second case less than  
25 one hundred dollars and in the third case -- that  
26 is, over 12,000 tons -- they have a sum which is  
27 less than fivehundred dollars. Obviously there is no  
28 explanation. The exhibit was tabled subsequent  
29 to the sittings and we have been unable to cross-  
30 examine anyone in relation to this exhibit.





1 French

2 Now, I wish to point out that it would  
3 seem that in the case of lake steamers of heavy ton-  
4 nage either someone else is doing the piloting or  
5 else the pilots have decided to do the piloting  
6 themselves free of charge and this would surprise me.

7 I was examining yesterday afternoon the  
8 proposal of the Shipping Federation with a view to  
9 cutting the Montreal District into two. A point of  
10 division would be the Sorel-Quebec limits, and I was  
11 speaking of an additional workload that this would  
12 mean for the pilots who would have to pilot from  
13 Quebec to Sorel.

14 My colleague Mr. Brisset tabled Exhibit  
15 1192 which is the exhibit giving the case of twelve  
16 ships, drawn up by the regional superintendent in  
17 Montreal and giving the times taken by these twelve  
18 ships for the trip, to go up and down the St. Lawrence.  
19 Obviously this exhibit does not claim to be valid from  
20 the statistical viewpoint; it is only the case of  
21 twelve ships. There has been no indication of the  
22 criteria used in the selection of these twelve ships;  
23 but we note that aboard these twelve ships -- in the  
24 case of these twelve ships -- the average minimum  
25 trip was 7 hours 10 minutes, and the maximum trip  
26 was 13 hours. Then, downstream there is a minimum  
27 of 6 hours and 15 minutes and a maximum of 11 hours.  
28 We might note that these trips have all been between  
29 the 1st of May and the 22nd of October; therefore,  
30 over a period of a year when navigation is not subject







1 French

2 to the particular difficulties found either in the  
3 spring or in the fall, or the end of the autumn.  
4 These figures speak for themselves.

5 I believe that you have had an oppor-  
6 tunity to travel between Montreal and Quebec, cover-  
7 ing the route between Montreal and Quebec, and you find  
8 that the pilot is under continuous tension during  
9 the trips in this region; and I would simply suggest  
10 to the Commission that it must look elsewhere, at  
11 other cases throughout the world, and see whether there  
12 are pilotage districts which are similar, where the  
13 pilot must be . . . (translation not clear) . . .  
14 and where the pilot will be asked to be constantly  
15 on duty and to make continuous effort even during  
16 fine weather and work continuously for 13 hours.

17 I think the Montreal pilots, when they  
18 took steps to obtain the cutting down of the district  
19 at Three Rivers, succeeded in cutting down substan-  
20 tially the length of the route compared to the previous  
21 period, but even at the present time length of the  
22 trip compares quite favourably, in so far as effort  
23 is concerned -- the length of trip -- with any other  
24 pilotage district in the world; and I believe that it  
25 would be erroneous to extend further the length of  
26 the trip for the Quebec pilots beyond Three Rivers.

27 In so far as the case of the pilots in  
28 Montreal harbour are concerning, which has become the  
29 district of Montreal Harbour, I believe there has been  
30 nothing to prove that there would be a reduction in





1 French

2 the service cost for pilotage resulting from this  
3 division.

4 We would still have the problem of  
5 entering (inaudible) and it is obvious that a district  
6 extending over forty miles could not be considered as  
7 a harbour in the traditional sense for pilotage pur-  
8 poses, where we would call them docking pilots, as  
9 in other harbours in the world, where they are going  
10 from one berth to another; and the setting up of the  
11 new district, for all practical purposes, would soon  
12 lead to the same situation we now have, where we might  
13 have a certain number of pilots who would be con-  
14 tinuously handling the moveages in Montreal harbour  
15 and others making trips and bringing them into the  
16 harbour, and others who would be taking them to and  
17 from between Montreal and Sorel. There wouldn't be  
18 easier administrative procedures, and what we would  
19 have achieved at the end of the year would have been  
20 to increase the workload of the Quebec pilots, because  
21 . . . (translation not clear) . . . would be longer;  
22 but we might perhaps cut down in the Montreal harbour  
23 the year-round moveages; and one might be called upon  
24 to take ships to Sorel and get ships at Sorel; whereas  
25 the argument of expertise in favour of the Montreal  
26 harbour pilots might be cut down -- their experience  
27 would be lesser.

28 -

29 -

30 -





1 French

2 To summarize, the pilots in the Montreal  
3 District consider that the present system is a system  
4 -- from the viewpoint of the service and efficiency  
5 and workload is the most efficient system. There  
6 is no need of any technical character and there is  
7 no logical reason for the boundaries of the harbour  
8 to coincide with the harbour boundaries. There is  
9 no reason why they should be redesigned in such a way  
10 as to conform to the present highway boundaries.

11 What must be clarified are the regula-  
12 tions and the legislation in regard to the boundaries  
13 above Montreal Harbour District.

14 It would seem at the present moment that  
15 there is a part that is overlapping as in Quebec. The  
16 harbour limits are not precise. The limits are  
17 defined in the Canada Shipping Act as they were be-  
18 fore the Seaway was established and the rules con-  
19 cerning the Cornwall District are not very clear  
20 either concerning exact boundaries above the Seaway.  
21 There should be clarification of this question.

22 We might perhaps maintain a certain  
23 region, a certain overlapping of districts, but it  
24 should be better defined than it is at the present  
25 time.

26 As to the difficulties involved in the  
27 changing of pilots at St. Lambert, these difficulties  
28 seem to have been settled and during the course of  
29 this year no special difficulty has been found.

30 The shipowners have complained that they







1 French

2 were obliged to indemnify the harbour pilots for the  
3 period during which they were moving ships down the  
4 St. Lambert wharf and I would state in this regard  
5 that it is not surprising if we compare this with  
6 the experience found elsewhere in the world where  
7 there are moveages of ships from one place to another  
8 with a pilot aboard. What is perhaps surprising is  
9 that the shipowners have had nothing to pay for  
10 this service previously.

11 As to the detaining of pilots at Cornwall,  
12 an exhibit was tabled under the figure 1420, and I  
13 note in the item that there is a complaint of the  
14 allowances, the detention allowances, and I note on  
15 this item, reports of the 9th July, 1964. I am  
16 told that since that date there has been a change made  
17 in the administration of dispatching, and that for all  
18 practical ends and purposes there are very few cases  
19 where there would be an occasion arising for double  
20 detention allowance.

21 In so far as the Cornwall District is  
22 concerned it is obvious there should be clarification  
23 of the situation between Snell and the St. Regis  
24 Lock. The situation at the present is most con-  
25 fused and I have tabled our correspondence with the  
26 Pilotage Authority and I have attempted to obtain  
27 over the past year clarification of the position of  
28 a Canadian pilot when they are navigating in these  
29 waters either from the American Coast Guard or the  
30 Pilotage Authority in Washington, and I received no





1 French

2 replies except that the question was under examination.

3 As to the Great Lakes Basin: the present  
4 situation is that we have a joint pilotage operation  
5 for Canada and the United States all over the Great  
6 Lakes starting at the boundary between Canada and the  
7 United States at St. Regis, and that these joint  
8 operations provide compulsory pilotage in a certain  
9 number of districts, in the three districts, and  
10 a minimum local knowledge required on the unre-  
11 stricted waters of the Great Lakes.

12 The Shipping Federation of Canada made  
13 a recommendation, an important recommendation, regarding  
14 the division of the Great Lakes Basin.

15 In the brief this recommendation aims  
16 at establishing five pilotage districts different  
17 from those in existence at the present time and on  
18 dividing the Great Lakes into areas of operation  
19 which are exclusive to one country compared to the  
20 other. The comment which I have to make on this  
21 subject matter may be divided into two categories.  
22 I will have some comments to make involving the prin-  
23 ciple of these exclusive areas of operation for one  
24 country and I will also have some comments to make  
25 regarding the establishment of new boundaries in the  
26 districts as provided.

27 First of all, as to the exclusive areas  
28 of operation of one country I think that this prac-  
29 tice -- the guiding principles to the effect this  
30 operation will remain international in character, such







1 French

2 operation will in practice lead to the complete dis-  
3 location of the joint system and probably to its  
4 eventual disappearance, and in the final analysis  
5 each country, having exclusive administrative juris-  
6 diction of one part of the Great Lakes, will come to  
7 consider itself eventually as entirely free to do what  
8 it pleases within its own jurisdiction whether the  
9 case may be United States or Canada.

10 Even if the recommendation of the  
11 Shipping Federation does not bring about the disap-  
12 pearance of this joint system, which has been adopted,  
13 the proposal of the Shipping Federation does not bring  
14 forward any solution to the problems faced.

15 You have heard witnesses both Canadian  
16 and American as regards the everyday immediate opera-  
17 tion of pilotage. There is no serious problem be-  
18 tween the American pilots and the Canadian pilots with  
19 the exception of one problem and that is a serious  
20 problem which results from the difference in status  
21 between the Canadian Pilotage Districts Nos. 2 and 3  
22 in comparison with the Americans. Some are from  
23 the States and others are Canadians. I am not going  
24 to prolong this at the present time. You know what  
25 the practical implications are of such a system.

26 The result of this problem which results  
27 from this whole matter of status, one can consider  
28 there is no serious problem between the two groups  
29 of pilots in the everyday operation of pilotage and  
30 its administration is reasonably accomplished between





1 French

2 the two groups where there are certain differences  
3 of opinion. Well, there may be, but they are  
4 being discussed as between two reasonable parties.

5 The establishment of any new system  
6 requires a certain period of adoption. In 1961 you  
7 had on the Great Lakes and establishment of a new  
8 system regarding which neither Canada nor the United  
9 States had any previous experience. You have studied  
10 the situation amongst the pilots in the present case.  
11 The question has not been settled. Here we have the  
12 first attempt of starting to establish a new system  
13 and this system had to be established rapidly. Even  
14 if we think that certain administrative mistakes  
15 might have been thwarted with previous consultation  
16 of the interested parties, both the shipowners and  
17 the pilots, I think we must reach the conclusion that  
18 the joint operation of pilotage on the Great Lakes  
19 has worked reasonably well up to now and that perhaps  
20 one of the serious problems which remains between the  
21 shipowners and the pilots is with respect to District  
22 No. 2. I respectfully submit that this problem is  
23 related to technical elements such as the situation  
24 of heavy traffic at the Welland Canal and inefficiency  
25 or the impossibility of the Detroit harbour receiving  
26 the number of vessels going up through that harbour  
27 and an insufficient number of docks and wharves; but  
28 as regards the other factors relating to pilotage  
29 itself I think the system has worked reasonably well,  
30 if we take into account the initial period of time







1 French

2 that was used in order to really try to get the  
3 system working well.

4 I have a third factor as regards the  
5 principle of establishing exclusive areas of pilotage.  
6 I have another factor regarding the proposal of the  
7 shipowners. I think that there is a certain  
8 illusion on the part of the shipowners if they  
9 think they will be able to decrease the cost of  
10 pilotage on the Great Lakes. I said yesterday that  
11 if we reach a system by which there will be harbour  
12 pilots that will be exclusively Canadian or exclusively  
13 American the cost to the shipowners would be higher  
14 than it is at the present time. I said the same  
15 thing. If we speak about exclusive areas of opera-  
16 tion the same thing will apply.

17 The system which is proposed will have  
18 the effect of giving the Americans exclusive juris-  
19 diction of a greater number of harbours in restricted  
20 waters than would be the case for Canadians and in  
21 knowing the experience of the cost of pilotage in  
22 the United States it should become evident that the  
23 cost of pilots, at any rate so far as Americans are  
24 concerned, would substantially increase.

25 Another factor which we mentioned  
26 regarding this proposal is the fact regarding  
27 District No. 2 would be restricting to Canadian pilots  
28 exclusively within the Welland Canal. Evidence  
29 was given before this Commission regarding the physical  
30 conditions and the psychological conditions of







1 French

2 pilotage. That is, performing constantly in a  
3 canal such as the Welland Canal, it is quite evident  
4 if certain pilots were called upon to pilot exclusively  
5 within the Welland Canal you would have to increase  
6 the rest period between trips because these trips  
7 are quite lengthy and they require constant attention  
8 and represent constant tension, constant stress for  
9 a pilot.

10 If we are going to think of having  
11 pilots on board vessels for complete navigation  
12 seasons, the periods of rest during the whole naviga-  
13 tion season -- it is quite evident that no group of  
14 pilots is going to perform under such conditions  
15 without having rest periods that would be lengthier  
16 than the ones they have had up until now.

17 It applies to the increase in the number  
18 of pilots in this district if this proposal were  
19 adopted.

20  
21 -

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30





1 French

2                   Once more I would like to underline  
3 the fact that the number of harbours and the ex-  
4 clusive areas yielded to Americans through the  
5 proposal of the Shipping Federation would be greater  
6 than the ones given to Canadians. You have seen  
7 Exhibit 1292, and interpret it any way you wish, as  
8 I did, or as the Shipping Federation, you will see  
9 the situation whereby, according to my own drawings,  
10 you consider the possibility that pilotage on non-  
11 restricted waters be maintained by one system, of  
12 one form or another, where you have four out of  
13 five of the Great Lakes entirely yielded to Americans  
14 with the exception of Fort William and Port Arthur  
15 harbours, and you maintain the Canadian region which  
16 would be the Welland Canal, Lake Ontario and the  
17 St. Lawrence River to Cornwall, and even the pro-  
18 posal of the Shipping Federation provides that  
19 eventually there might be American pilots working  
20 exclusively in the Rochester harbour on Lake Ontario  
21 as the maritime traffic would be developed and in-  
22 creased.

23                   Now, if you take the maps or the  
24 drawings made by the Shipping Federation which  
25 eliminates entirely pilotage on non-restricted waters,  
26 you reach the following results whereby you have a  
27 Canadian or American area in what are at the present  
28 time districts, and with Canadian pilots from Corn-  
29 wall to Port Colborne and you have authority over  
30 the harbours of Lake Ontario and Canadian territories.







1 French

2 That is, Hamilton and Toronto, but if you look at the  
3 American harbours even on Lake Ontario -- they are  
4 indicated in blue -- meaning that we yield to the  
5 Americans -- we have harbours on Lake Erie and Lake  
6 Ontario which are ceded to the Americans and then all  
7 the other harbours on Lake Erie and others on Georgian  
8 Bay and all the harbours on Lake Michigan and all the  
9 other ones on Lake Superior are yielded to the  
10 Americans.

11 Now, I understand that one part of  
12 Canada seems to have reached agreement with the  
13 United States, an agreement that seems to be favour-  
14 able to Canada. We don't see why the Canadian Govern-  
15 ment should be the first to yield or waive all the  
16 advantages it has acquired up to now. So, regarding  
17 this principle of exclusive operation areas we  
18 declare ourselves entirely against such a proposal,  
19 and this is something that should be maintained as  
20 a joint system with a parity in the number of pilots  
21 on the Great Lakes as a whole.

22 As regards the establishment of new  
23 boundaries for these districts, the proposal of the  
24 Shipping Federation would lead us to the establish-  
25 ment of five districts. Exhibit 1282 of the Shipping  
26 Federation indicates only four such districts, but  
27 you will recall that the proposal provided an  
28 American district over a distance of a few miles  
29 between the frontier at St. Regis and Snell Lock, or  
30 rather, I am sorry, Eisenhower Lock. This district





1 French

2 is not indicated on this exhibit. Perhaps it would  
3 be a good idea to correct that.

4 Then you have the Canadian district  
5 from Eisenhower Lock to Kingston, and the Canadian  
6 district to Hamilton and American district which  
7 covers the whole St. Marys River and Detroit River.  
8 Finally the American district which would cover the  
9 Sault Ste. Marie area. You must recall while you  
10 have three districts according to this proposal you  
11 will then have five districts, and having these  
12 districts would automatically mean an increase in the  
13 total number of pilots for a very simple reason,  
14 because the more you add changeovers of pilots from  
15 one district to another, the more the detention time  
16 increases.

17 If you have a pilotage district of  
18 eighty miles and you have divided it into two dis-  
19 tricts of forty miles each, and if you had eight  
20 pilots to do this work previously, two times four  
21 would be enough to do that workload. As soon as  
22 you divide the district then for the simple reason  
23 that you add detention and travelling at four times  
24 instead of two -- at four places instead of two  
25 places as was the case previously ---

26 THE CHAIRMAN: I think from Montreal  
27 and Quebec you are going to see the same thing.

28 MR. LALONDE: You are going to see that,  
29 but it will be more difficult to assess because you  
30 have also had the establishment of the Montreal pilots.





1 French

2 But from the logical viewpoint this argument is quite  
3 consistent. This proposal, moreover, will have as  
4 a result the addition of two pilot boat services,  
5 one at St. Regis because at the present time pilots  
6 go off at Snell Lock, and the other one at Southeast  
7 Shoal on Lake Erie. (French translation indistinct).  
8 This will be a pilot boat that will be expensive  
9 because this pilot boat will have to go a few miles  
10 off the coast on unrestricted waters of Lake Ontario,  
11 and this pilot boat will have to be built in order  
12 to face any type of weather. I am not including  
13 here the additional cost represented by pilot boats  
14 required in the harbours or by the costs represented  
15 for the transportation of pilots on board tugboats  
16 in all the other harbours of Lake Ontario, costs  
17 that we do not have to incur at the present time  
18 if there is a pilot on board.

19 So the recommendation of Captain Johnson  
20 aiming at the establishment of four districts rather  
21 than five districts is probably preferable to that of  
22 the Shipping Federation; as its first result would  
23 be to have four such districts instead of five, and  
24 of reducing the total number of pilot boats required  
25 on the whole Great Lakes Basin, so the proposal of  
26 the Shipping Federation adds two pilot boats and that of  
27 Captain Johnson retains a total of two pilot boats.

28 Now, let us discuss the financing. As  
29 I indicated there is a great diversity in the whole of  
30 the financing in Canada. You have tariffs only







1 French

2 covering the remuneration of pilots, but on the  
3 Great Lakes it covers administrative costs alto-  
4 gether. It is a great diversity in the basis of the  
5 operation. Sometimes there is a tariff fixed as in  
6 the case of Cornwall and Kingston districts on the  
7 Great Lakes, and sometimes there is one as a variable  
8 rate based on the draught or gross or net, distance,  
9 or any other balancing of these diverse factors.

10 The St. Lawrence and Great Lakes pilots  
11 have made recommendations in this regard, recommendations  
12 both as to the purpose of the tariff, the amount of  
13 the tariff, and they have recommended a double tariff  
14 which would cover the administrative cost and the  
15 remuneration of the pilots. Their recommendations  
16 have been also as to the modality of the tariff.  
17 They have suggested a system that would cover the  
18 draught of water -- at least these two elements --  
19 and tonnage, and the criteria that should govern  
20 the specific or general character of the tariff  
21 at such and such a moment as far as the purpose of  
22 the tariff is concerned.

23 When I was discussing the overriding  
24 principles I discussed the economic argument in  
25 favour of the principle of paying the administrative  
26 costs, the payment to be made by the users. You will  
27 find in Volume 95, at page 11,884 and following pages,  
28 the reasons that decided upon the dividing of the  
29 tariff into two parts. You will see the argument  
30 submitted by the Federation in paragraph 555 in its





1 French

2 brief, Item 671.

3 In regard to the arguments that are  
4 there submitted I would like to add the following:  
5 in the case of ships' exemptions from compulsory  
6 pilotage in Canada in harbours and elsewhere, these  
7 ships might be above a minimum tonnage but might be  
8 obliged to pay that part of the tariff that covers  
9 administrative costs at any time whether they use a  
10 pilot or do not use a pilot. The reasons behind this  
11 recommendation are the following ones: These ships  
12 occasionally use the services of a pilot, and even  
13 if they only use a pilot two or three times a year,  
14 the service is most useful to them on these two or  
15 three occasions. And the other ships' owners pay  
16 for the maintenance of this service which is a con-  
17 tinuous service.

18 There is no doubt about the fact that  
19 pilotage in a given district contributes to increasing  
20 safety of navigation as a whole, and all the ships in  
21 these areas benefit from greater safety when they are  
22 coming into the harbour or out of the harbour due to  
23 the fact there is a pilot aboard the vessels that  
24 are not exempt from pilotage and use pilots.

25 This system is the one that is in force  
26 in Germany at the present time on the Elbe River and  
27 also in force in other German harbours.

28 This proposal which is intended to  
29 impose the payment of administrative costs upon the  
30 users as well as the remuneration of pilots does not







1 French

2 mean or would not mean a much greater increase in  
3 pilotage costs because it only means that you would  
4 be covering land costs, the services of pilot boats  
5 having already been paid by shipowners. Indeed,  
6 certain pilot boat services belong to the government,  
7 in particular that at Les Escoumains, and while this  
8 does not bring any profit to the government it could  
9 probably be eventually reduced if it were simply  
10 operated on a non-profit basis. That is, part of  
11 the tariff that is spent on administrative costs  
12 would simply cover current operations and depreciation  
13 and would not involve a profit element for the  
14 pilot or for any other interests.

15 As we must cover solely the land costs  
16 in these cases these land costs would not increase in  
17 proportion to the increase in maritime traffic.

18 Whether there be a radio-telephone service,  
19 well, within certain limits you are bound to keep  
20 some staff and the same service afoot whether it be  
21 used twenty times an hour or five times an hour and  
22 whether the maritime traffic increased or not it is  
23 expected that the increase in administrative costs  
24 involving these services would not increase in the  
25 same proportion. If you look into the exhibits  
26 tabled before this Commission, and in particular,  
27 Exhibit 1295 covering the administrative costs assumed  
28 by the present government in pilotage services, we  
29 have taken the total administrative costs in Canada  
30 at the present time.





1 We have eliminated the costs on the Great  
2 Lakes because these are already paid by the shipowners,  
3 and we find in the result that that is essentially  
4 the total represented by the present tariff. We get  
5 something which would represent about 15% of the present  
6 tariff that would cover all these costs. I am  
7 speaking of some harbours where probably there should  
8 be a direct subsidy to cover administrative costs.  
9 Indeed, if we consider the St. Lawrence alone and the  
10 part of the St. Lawrence not now covered for  
11 administrative costs your percentage would be a good  
12 deal less than 15%.

13 We are of the opinion that this increase  
14 in the tariff in regard to administrative costs would  
15 not hinder the maritimes traffic in any way; indeed,  
16 looking at the experience on the St. Lawrence Seaway  
17 since 1961, when there were pilotage tariffs that were  
18 set a good deal higher than those previously in effect  
19 -- despite that the maritime traffic along the St.  
20 Lawrence and the Seaway has only increased.

21 Looking at the experience of the past year,  
22 looking at the figures produced by the Seaway Authority  
23 and the prediction for the coming year also, it seems  
24 most optimistic.

25 Insofar as the basis of tariff is concerned  
26 we claim that you should abandon the minimum tariff  
27 and set up a flexible tariff covering several elements --  
28 more particularly, tonnage and draft. It seems to  
29 us that the old tariff -- the set tariff -- is an  
30 injustice against small ships and that it follows





1 that the cost of pilotage is of a minor effect and that  
2 the basis of the tariff is not important to shipowners  
3 in this instance.

4 We also feel that the variable rate made  
5 on tonnage and draft guarantees greater stability in  
6 the tariff than does the fixed tariff; this is the tariff  
7 on the Great Lakes. Since 1961 this has had to be  
8 changed every year.

9 The variable tariff was drawn up in  
10 conjunction with two factors -- draft tonnage and the  
11 number of... -- the revenue of the pilots depend on  
12 two factors -- the capacity of the ship and the number  
13 of ships. Experience in the past has shown that the  
14 number of ships, as such, did not greatly increase, and  
15 the number of ocean vessels did not increase, but the  
16 tonnage did, with the result that the pilots were able  
17 to maintain a progressive increase in revenue over the  
18 years; whereas if there had been a fixed basis on the  
19 number of ships, the number of trips, the result would  
20 have been that we would have to increase the tariff every  
21 year, because the number of trips did not increase  
22 sufficiently to ensure the pilot a revenue that was  
23 proportional to the... (translation not clear)...  
24 in regard to movements of ships in harbours; in these  
25 cases we have no objection to a fixed rate being  
26 maintained; but we believe in these cases tonnage and draft  
27 might be used as the basis, or there might be a tariff  
28 depending on the tonnage of the ship.

29 Insofar as the remuneration of pilots is  
30 concerned, this question has been affected by the







1 attitude or the status of the pilot, and the debate  
2 in great part has been to decide whether the pilots'  
3 remuneration should be a factor dependent on the tariff,  
4 or whether he should have a set salary, what we might  
5 call a "target income" -- and I use the English word  
6 because there does not seem to be a suitable translation  
7 into French; and insofar as remuneration dependent on  
8 the tariff is concerned we ask for this position:

9 We maintain that the fact that the pilot's duties vary  
10 a great deal, both in the nature of the work and the  
11 type of ship and the length of trip -- that any change  
12 in his duties should correspond to variations in the  
13 tariff, and we think there are advantages in, probably,  
14 the efficiency of the service in tying up the remuneration  
15 of the pilot to differences in his duties; there are  
16 advantages in tying up the productivity of the pilot  
17 to the remuneration. This system should incite pilots  
18 to make the greatest number of trips that they may  
19 subject to safety considerations.

20 People have sought to review the argument:  
21 Should the pilots put their money into a common fund?  
22 What use would there be in having a variable rate of  
23 tariff? I would like to underline the point here that  
24 the common fund does not mean that this common fund  
25 be shared equally as a salary among all the pilots.  
26 You have had arguments based on the common fund.  
27 You will notice that these studies are based on the  
28 number of trips taken by the pilots.

29 THE CHAIRMAN: On the St. Lawrence?

30 MR. LALONDE: Yes. We think that this





1 is bound up with the availability of the person  
2 there, the work of the person, whether he be aboard the  
3 ship in person or not aboard the ship.

4 The pool also is aimed at protecting the  
5 pilots who are on duty and who would be sitting at a  
6 disadvantage due to the inequality in the type of duties  
7 on the ships on which they would be working. Some  
8 may be on smaller ships, some on large ships, and I  
9 believe that the element of the pool does not constitute  
10 an argument that is a valid one in objecting to the  
11 remuneration being tied up to the tariff.

12 With regard to the set salary, you have  
13 had experience of districts 2 and 3 on the Great Lakes.  
14 There has been a difference in the treatment of the  
15 pilots who are Canadian and the pilots who are U.S.  
16 pilots. We find that they have decided to make the  
17 greatest number of possible trips, and we think there  
18 is no resultant... (translation not clear)... in  
19 accelerating the service.

20 On the status and privileges inherent in  
21 the profession, as such, the fact is that the shipowners  
22 themselves have now abandoned this type of approach,  
23 yet they have maintained there should be a salary, in  
24 earlier years. Abroad, whether in Holland or Belgium,  
25 in the case of set salaries what has happened is that  
26 a good many other techniques have had to be added to  
27 increase production. You have heard witnesses  
28 explain to you how the administrator and the pilots  
29 in Belgium had to wander along with their slide rules  
30 to calculate how much this would bring into them in







1 regard to taking some... (translation not clear)...  
2 all sorts of techniques in order to increase productivity  
3 of the pilots.

4 While I am on this topic I want to make  
5 mention of a statement that was made in regard to the  
6 Audette commission. I remember reading...  
7 (translation not clear)... that the Shipping Federation  
8 to the Audette Commission suggested a set salary.  
9 I have carefully read it, and nowhere is there such  
10 a recommendation. What is found is that the Audette  
11 Commission's recommendation was standardization on the  
12 basis of the tariff throughout Canada, but nowhere is  
13 there a recommendation of a fixed salary or target income.  
14 The Audette Commission even took a categorical position  
15 against the setting of a minimum guaranteed revenue,  
16 or a minimum guarantee set, as certain pilots had  
17 proposed.

18 COMMISSIONER SMITH: Wasn't it uniformity,  
19 or standardization?

20 MR. LALONDE: Uniformity on the basis of  
21 a tariff.

22 COMMISSIONER SMITH: Yes.

23 MR. LALONDE: Yes; but this is not  
24 uniformity in earnings, or salaries, or anything of that  
25 sort.

26 Insofar as the target income proposal is  
27 concerned I would merely like to enumerate certain  
28 suggestions which we have. I would like to say, first  
29 of all, that this proposal involves basically a change  
30 in status of the pilot -- in the status of his





1 relationship vis-a-vis the employer, or the contracting  
2 party -- the shipowner. In the second place, this  
3 proposal does not wipe out any of the factors involved  
4 in the present negotiations. We may believe that in  
5 the negotiations to date the pilots are only speaking  
6 of tariffs, but you must admit that even if this were  
7 true the two other parties wanted to speak of salaries,  
8 and the proposal we submit here will only add, in the  
9 final analysis, a further point for discussion:  
10 How are you going to establish a minimum and maximum?  
11 This will add two other points upon which the contracting  
12 parties may quarrel. Let us say that the parties got  
13 to an understanding with regard to planning a target  
14 income. I think the problem will then be:  
15 Will it revolve upon working conditions, and then we  
16 will bring in another element into the discussion  
17 between these parties and we will have debates --  
18 very long discussions -- on working conditions and on  
19 what you have decided as the maximum and minimum income.

20 It is quite clear that people would tend  
21 to turn round and say: "Well, now, for this revenue  
22 we would like to do the least possible amount of work  
23 for the revenue set." And, after all, why shouldn't  
24 such a system be available in the pilots' office every  
25 day over an 8-hour period, for instance, and the pilots  
26 will be available to do the work and they will be  
27 guaranteed this maximum revenue depending on the tariff.

28 Once there was a set revenue guaranteed  
29 there would be pressure as regards working conditions.  
30





1 French

2 I think that there again we will have  
3 a marked extension in conflicts rather than a cutting  
4 down in conflicts.

5 THE CHAIRMAN: Are you passing on to  
6 another point?

7 MR. LALONDE: I think I will be short  
8 on this, your lordship. As regards participation  
9 of pilots in the establishment of tariffs I think it  
10 is very important to hold the line here. Pilots have  
11 a considerable interest in the method by which  
12 tariffs are established. The shipowners say, well,  
13 we are going to guarantee you an income for next year  
14 of, let us say, a maximum of \$15,000. We are going  
15 to establish a tariff so that you will be able to get  
16 that.

17 So now, the tariff is based on an  
18 element which will be decreased rather than increased  
19 so that next year the income will be \$12,000 or  
20 \$13,000 instead of \$15,000, and then once more we  
21 will have to have new negotiations regarding the  
22 tariff and the pilot in the meantime will have lost  
23 \$3,000 revenue as compared to this guaranteed income.

24 I think that the pilots have an interest  
25 in that and should take part in discussions regarding  
26 the tariff.

27 THE CHAIRMAN: Considering that it is  
28 not a salary, if you had a minimum salary with  
29 variations for the excess in certain working con-  
30 ditions, well, the pilots would then have no interest







1 French

2 in the establishment of a tariff because the wage  
3 would be guaranteed by the government and the surplus  
4 added to their wages whenever they have an increased  
5 workload and then they would have a minimum wage.

6 MR. LALONDE: This would be part of  
7 the system but we are not talking about guaranteed  
8 income. We are talking about the target income of  
9 wages. There are other elements which I think  
10 underline greater disadvantages than there would  
11 be advantages. That is why we object to any for-  
12 mula for wages.

13 Finally we have submitted as Exhibit  
14 952, Mr. Colley did, notes regarding earnings of  
15 pilots. I would like to draw the Commission's  
16 attention to the notes regarding earnings of pilots.  
17 I would like to draw the Commission's attention to  
18 these notes on pages 2 and 3. I will leave the  
19 Commission free to reach its own conclusions regard-  
20 ing the difficulties of the task of pilots, and I  
21 think that the witness in this regard is a typical  
22 representative of an administrator or a pilot sitting  
23 at his desk and making comments regarding the opera-  
24 tion of this profession.

25 THE CHAIRMAN: We will have a short  
26 ten-minute recess.

27 ---Short recess.

28  
29 ---Upon resuming.

30





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2 MR. LALONDE: In brief, we think that  
3 the remuneration of pilots on the basis of tariff is  
4 still the best possible system to be used.

5 In the first place it is a system in  
6 agreement with the traditional status of pilotage in  
7 Canada and we think this status should be maintained.

8 In the second place I would like to stress  
9 that there has been no abuse -- if we study this  
10 question in an objective manner -- there have been  
11 no abuses on the part of pilots in the increase of  
12 tariffs in the St. Lawrence in recent years. Your  
13 Commission has before it all the tariffs of recent  
14 years and it will be in a position to study the  
15 present increase in the tariff from one year to the  
16 other. I am convinced that the results of this study  
17 will show that the pilotage operations have not in-  
18 creased out of bound as compared to the rest of the  
19 increases of other factors in the Canadian economy.

20 It might happen in cases such as on the  
21 Great Lakes where suddenly, in 1961, a new system has  
22 been introduced with the inclusion of payment of  
23 administrative costs and that there will be a sudden  
24 increase in the tariff. Naturally it would be  
25 wrong to conclude that any of this increase has  
26 increased the salaries of pilots.

27 In fact, look at all the regulations  
28 and bylaws that were implemented in October of 1950  
29 or in April of 1952; you will find that these regu-  
30 lations are quite reasonable and should normally







1 French

2 have resulted in negotiation that may have taken  
3 place on a regular basis in a reasonable manner.

4 All the complaints we might have about  
5 the presentday system is that there has not been any  
6 clear-cut system regarding the process of negotiation  
7 and discussion regarding the revenue of tariffs.  
8 The system has constantly been a kind of informal  
9 system. From time to time the Pilotage Authority  
10 would convene a meeting of the different parties  
11 in February and from time to time the process was  
12 started or a meeting with one or two officials and  
13 from time to time the shipowners wrote themselves  
14 to the Pilotage Authority in order to complain about  
15 one thing or another, but no machinery existed so that  
16 the parties were totally in a position to negotiate  
17 in order to discuss openly and seriously their  
18 difficulties.

19 Even with the meeting that took place  
20 with the Pilotage Authority in the winter season it  
21 was clearly shown that these meetings were held only  
22 for fun as the persons who were at these meetings  
23 had no mandate, no power whatsoever in order to make  
24 any decision of any type on any subject matter, so  
25 we have reached a situation where we were doing what  
26 I would call shadow boxing constantly, and so long  
27 as there would not be any system established or  
28 procedure established in order to start serious dis-  
29 cussions and discussions at depth that would lead  
30 to real and genuine decisions and justified supported





1 French

2 or substantiated questions, well, we are going to  
3 have trouble; whatever the system used for remunera-  
4 tion.

5 But, we think that the presentday system  
6 of remuneration related to tariff is satisfactory to  
7 all interested parties and that we may remedy the  
8 inconvenience and difficulties by the establishment  
9 of accurate and good procedures regarding the modifi-  
10 cation of the tariff.

11 Our recommendation regarding adminis-  
12 trative structure; I have given the details about it.  
13 I would like to refer to our brief. In fact, in  
14 any negotiations that were held by the shipowners and  
15 you have been notified in their brief, constantly  
16 have talked about the spiralling cost of pilotage  
17 or the cost of pilotage while talking constantly  
18 about the income of the pilots. Whenever they  
19 would mention cost we would have to translate that  
20 or transpose that if we are to examine the true  
21 cost.

22 I would like to refer to Exhibit 752  
23 produced by the witness Mr. Colley himself, where he  
24 says the average increase on a trip in Quebec district  
25 during the last five years, for example, was only  
26 \$24, and that from Quebec to Montreal the average  
27 increase has been only \$42, and in Montreal harbour  
28 was about \$13. This is over a period of five years.

29 This is not an increase in the tariff  
30 itself. It is an increase in the average cost of





1 French

2 the trip. Without referring here to the increase  
3 of productivity of these trips, it is a fact that  
4 ocean-going vessels have constantly increased their  
5 tonnage during that same period of time, so in simple  
6 terms of mean costs per trip what is mentioned would  
7 seem to be minimal.

8 In fact, if we wanted to truly talk  
9 about costs, this cannot be considered as being truly  
10 the cost of such-and-such because it is only a figure,  
11 some amount.

12 If we talk about costs it must be related  
13 to something. We may say, for example, the business-  
14 man may say it will cost him about \$300,000 more per  
15 year in order to run his business, and he may com-  
16 plain about the constant increase in the cost of  
17 his business, but he may also tell us on the other  
18 hand what the earnings were he got from this \$300,000.  
19 Nobody is going to complain about this increase of  
20 \$300,000. What is important is the net profit he  
21 recorded at the end of the year, so whenever we talk  
22 about costs, of course, the whole matter of costs of  
23 pilotage must be related to other enterprises and  
24 here I refer the Commission simply to the evidence  
25 that has been given by Mr. Jean Marie-Martin and John  
26 Gordon, economists and experts in industrial re-  
27 lations, and you may refer to Volumes 76, 77 and 110.

28 You may also refer to the brief of the  
29 Federation, Chapter 4, paragraph 179 and following.  
30 In fact, if we related the costs compared to the







1 French

2 productivity during these years we note the cost has  
3 been quite reasonable for a shipowner, but the  
4 real cost remained more or less constant during the  
5 last ten years.

6 If we speak in terms of income -- let us  
7 forget the question of costs -- of the shipowners, and  
8 let us establish a distinction between the two things.  
9 If we speak in terms of pilots' costs, the situation  
10 of pilots in regard to income is not out of bounds  
11 with in fact any other sectors of the economy and the  
12 earnings of pilots abroad or anywhere else in the  
13 world.

14 Exhibits have been filed by Mr. Bedard  
15 on this subject. I refer the Commission to those  
16 exhibits. We have suggested in our brief at  
17 Recommendation No. 22 a criteria that should govern  
18 the increase or rather should govern the review of  
19 the tariff or the establishment of the tariff within  
20 a district.

21 I would like simply to refer the  
22 Commission to that recommendation and you will find  
23 it in paragraph 562 and following.

24 As regards working conditions of pilots,  
25 I would like to refer the Commission Chapter 3 of  
26 our brief, Exhibit 671, paragraphs 139 and following  
27 as well as the exhibits filed by ourselves under  
28 Exhibits E-780 and E-1416, 1417 and 1418 and moreover  
29 to all the exhibits filed by the pilots of Districts  
30 No. 2 for Port Weller and Sarnia.





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2 These exhibits give details about working conditions,  
3 the hours of work performed by these pilots on the  
4 St. Lawrence and the Great Lakes. These exhibits  
5 themselves do not mention all the other factors  
6 related to the performance of pilotage such as the  
7 constant adaptation required by the pilots to different  
8 environments for work, because each new vessel repre-  
9 sents a new environment. The irregularity of the  
10 tasks which may be shown and the hours of work,  
11 whether the pilot works during the daytime or night-  
12 time, the conditions of the performance of his duties  
13 and the working conditions also at the level of  
14 physical requirements of his task; endurance, the  
15 question of nimbleness that is required, and also of  
16 the general health condition of the pilot, more  
17 especially, as regards his eyesight and hearing.

18 I think that all these elements and  
19 factors must be taken into consideration whenever  
20 you study working conditions of pilots, and must  
21 also be taken into consideration before starting  
22 to make any comparison whatsoever on any other sector  
23 of the economy.

24 All these points are mentioned and  
25 detailed in our brief as well as in the evidence  
26 presented before this Commission. We have filed many  
27 tables on this matter. We see the uselessness of  
28 statistics prepared by the Pilotage Authority regarding  
29 the workload of the pilots, and we see how these  
30 statistics give a misrepresentation of reality







1 French

2 of thought as regards the work of pilots.

3 As regards the status of the pilot and  
4 his responsibility vis-a-vis the vessel, we made a  
5 recommendation regarding his status, Recommendation  
6 No. 8 in our brief, according to which we consider  
7 that the present status of the pilot should be main-  
8 tained as regards the definition of his duties. That  
9 is, he must remain an adviser of the ship's master, the  
10 oracle of the ship's master, and the status should be  
11 maintained.

12 As regards his responsibility towards  
13 the vessel in the case of an error, I would like to  
14 underline first of all that there are some very  
15 stringent penalties provided in the law, in the Act.  
16 I refer to Article 368, 367 and 568 of the Act which provides  
17 very stringent penalties whenever there is an error  
18 on the part of the pilot. Certain penalties are  
19 provided whenever there is neglect in the performance  
20 of the duties of the pilot, and errors, where the  
21 penalties are stricter than those existing in any  
22 other profession governed by special laws. As regards  
23 this quasi-penal responsibility, there is also the  
24 civil law. Article 362 provides a maximum penalty  
25 of \$300.

26 We have expressed preference for the  
27 maintenance of this status quo. We also add that  
28 if this Commission reached the conclusion that it would  
29 be a good idea to keep the pilot responsible for the  
30 full damages caused to the ship, the simple result of





1 French

2 that would be that the pilots would naturally have  
3 to be insured proportionately, and this might repre-  
4 sent insurance policies of perhaps millions of dollars,  
5 and the costs of that would have to be decided some-  
6 where, and in the final analysis what takes place is  
7 this, the cost has to be introduced on the tariff in  
8 one form or another.

9 As regards the professional condition  
10 or status of the pilot, I would like to refer you to  
11 Recommendation No.16 of the brief of the Federation  
12 of Pilots of the St. Lawrence Part 1, chapter 4 of  
13 the brief. That is, paragraph 179 and following.  
14 I would like to refer you to the brief of the Cor-  
15 poration of the Great Lakes Pilots and also of the  
16 St. Lawrence and most of the pilots of the Great Lakes  
17 prefer the formula according to which the pilot is  
18 a contractor, remunerated according to tariff and  
19 subject to public regulation. We think that the  
20 efficiency of the service and the public interest  
21 can be both better served by such a system. In  
22 particular, we reject categorically the status of  
23 an official of the government, of a civil servant  
24 of the government, at prevailing rates.

25 As regards this question of the status  
26 of civil servants I must underline the absence of a  
27 well-defined government policy on this subject, and  
28 particularly the lack of policy on the part of the  
29 Pilotage Authority -- while it was contended that  
30 there were some three offers made to the pilots and





1 French

2 the pilots could decide in a great majority one way  
3 or another. I would like to refer you to the state-  
4 ment that was made by The Honourable Leon Balcer  
5 at the meeting with the pilots of the Kingston district  
6 in February, 1961. This exhibit has been filed be-  
7 fore the Commission. In fact, since 1958 at any  
8 rate we have witnessed a constant pressure on the  
9 part of civil servants so as to encourage pilots  
10 to join the ranks of government employees paid at  
11 prevailing rates. I already discussed or mentioned  
12 the way in which such pressures may have been exercised  
13 on the Kingston pilots, for example, demanding that  
14 they all go to Ottawa, and relating the ridiculous  
15 type of meeting that happened and also underlined  
16 the steps taken by the pilots of Halifax and St.  
17 John's, Newfoundland, which are still going on even  
18 during the sittings or the hearings of this Com-  
19 mission.

20 In fact, who wants civil servant status  
21 for the pilots? The Shipping Federation in its brief  
22 has continued its attitude or approach and makes no  
23 favourable recommendation for such a project. Once  
24 more, in 1960, the Shipping Federation recommended such  
25 a status, and I would like to refer you to Schedule  
26 34 of Volume 2 of its brief, pages 98 and 99, and  
27 more particularly to the brief submitted to the  
28 Pilotage Authority by the Shipping Federation on  
29 December 12, 1960. We find an extract in Volume 73,  
30







1 French

2 page 3398 of the evidence.

3 As to the pilots of the Great Lakes,  
4 you have had a brief of the Professional Great Lakes  
5 Pilots, a brief of the Lake Superior Pilots Associa-  
6 tion, a brief of fourteen United States Pilots in  
7 District 2, the evidence of Captain Mallette, all  
8 these briefs stated that they are against the status  
9 of the civil servant being given to pilots or that  
10 the Civil Service Association did approve of the  
11 civil servant status for pilots.

12 We believe this system must be rejected  
13 on the basis of the following reasoning: We feel,  
14 first of all, this is a most inefficient system.  
15 What is important in the maritime field, and this has  
16 been told to you by numerous witnesses, shipowners,  
17 men responsible for harbours, that what is needed is  
18 rapid service available at all times in the maritime  
19 field.

20 Now, the system under which pilots would  
21 be civil servants would only result in the disap-  
22 pearance of encouragement to higher productivity  
23 amongst pilots. To do more than the State would  
24 ask them to do, the pilot would have to be encouraged  
25 to show greater devotion. We would have to depend  
26 on the devotion of the pilots. In the second place,  
27 this system, the civil service system, is a slow  
28 system. It is slow at the administrative level.  
29 This characterizes our government agencies, and I am  
30 not reproaching the administration in pilotage matters





1 French

2 in particular, but it is a recognized fact that  
3 government agencies tend to be rather slow, and this  
4 slowness is further contemplated by the fact that the  
5 control is a remote control in pilotage matters. The  
6 remote control is exercised by officials at Ottawa.

7 Look at the case of expenditures,  
8 expenditure formulae. Pilots have to fill out  
9 everything in forms covering their expenditures  
10 that are submitted to officials in Ottawa. The  
11 officials in Ottawa examine them send them back to  
12 the pilots, and the pilots resend them back to the  
13 officials, and I imagine the Commission itself has  
14 had to fill out expense forms and so they realize  
15 what a bother this is.

16 This remote control has also been  
17 evidenced in many other forms. It has a good many  
18 disadvantages. We have had ample evidence of this,  
19 but I merely want to point out that the pilots have  
20 not yet received the rules governing their profession,  
21 and although they have asked for these regulations on  
22 many occasions all they have is a mimeographed sheet  
23 that was tabled before the Commission.

24 It has been explained to you by witnesses  
25 from the department how complex are the regulations  
26 governing pilots. All requests must be submitted  
27 through pilotage officers and go to the staff officers  
28 in the DOT, and then go to the Department of Labour  
29 for opinions which will again refer back to the  
30 Department of Labour, and then to the Treasury Board,







1 French

2 and the Treasury Board then advises whether pilots  
3 should be added to districts. This is not the only  
4 red tape that is found in government circles. It  
5 does nothing but create inefficiency and slowness.

6 Secondly, the civil service system for  
7 pilots is not one that suits the profession. I  
8 mentioned a moment ago, and I referred you to the  
9 evidence as shown in foreign countries where all sorts  
10 of techniques have had to be developed in order to  
11 classify pilots who are State employees in special  
12 categories. The State has had to make them civil  
13 employees which are completely different from our  
14 civil state employees in regard both to working  
15 conditions and salaries.

16 I see that this parliament wishes to  
17 adopt a national labour code, and we may well ask  
18 ourselves how are the provisions of the labour code  
19 going to be applied to the pilots concerning minimum  
20 hours, and so forth. These provisions are to be  
21 applied to all State employees.

22 We have realized that it is impossible  
23 to classify pilots as civil servants, and they have  
24 had to be listed as prevailing rate employees. We  
25 may note the Canadian government has not even  
26 attempted to grant the Canadian pilots who are civil  
27 servants the same benefits as those granted to foreign  
28 employees employed by the government. Look at the  
29 cases in Holland, in Belgium, where they have the  
30 40-hour week, allowances for productivity and overtime





1 French

2 pay.

3 May I add as a further objection that  
4 despite appearances the civil service system for  
5 pilots is a very expensive one. It is expensive  
6 because of the inefficiency of services to shipowners.  
7 It is expensive to the State; expensive to the public.  
8 We should not calculate merely the salaries paid to  
9 these persons, but take into account all the indirect  
10 costs involved by bringing these pilots on a State  
11 payroll; staff division in the Department of  
12 Transport, work of the Department of Labour, work  
13 of the Department of Finance, time taken up by the  
14 Pilotage Authority in considering these problems.

15 -

16 -

17 -





1 All these involve additional opposition to the status  
2 of civil servants, or semi-civil servant status; so  
3 that this system, too would (translation not clear)...  
4 autocratic in Canada.

5 You have had the supervisor of pilots give  
6 evidence, and you have been informed how the pilots  
7 are treated in that district by the supervisor. There  
8 is no true participation by pilots at the local level  
9 in any division, in matters as simple as despatching  
10 rules. We have been told "Yes, he calls the pilots,"  
11 but he calls them from time to time and when he talks  
12 to them and when they come into the office the discussion  
13 or the consultation has not been a proper one. The  
14 pilot has been considered as a mere employee. This  
15 has been the general view.

16 This, I think, is a method that is  
17 unacceptable. This is not the way in which pilots  
18 should be treated by these people; they frequently have  
19 been ships' masters for many years before they were  
20 licensed pilots.

21 There has been evidence given concerning  
22 the manner in which the Department of Transport treats  
23 pilots in regard to meetings of pilots with D.O.T. officers;  
24 and I would mention the refusal of the Department to  
25 agree to joint meetings of representatives of the pilots  
26 from the districts, claiming that those groups of pilots  
27 did not represent the pilots as provided in the  
28 regulations governing prevailing rate employees.  
29 Finally this meeting did take place but only after many  
30 threats and useless discussions.







1 Before you there have been witnesses  
2 who were officials of the Department of Transport,  
3 and this Commission may judge for itself what is the  
4 general attitude of these officials towards the  
5 employees who are pilots. I would refer the  
6 Commission to the treatment granted to pilot Cote, and  
7 to Exhibit 1056. You will remember that Pilot Cote  
8 was the pilot who had left a ship during the Welland  
9 Canal transit because he felt quite incapable of  
10 continuing his work because he could no longer stand  
11 on his legs, and this pilot was suspended.

12 I think we should examine the manner in  
13 which the inquiry was conducted and the decision  
14 reached and the manner in which the case was not  
15 revised when new allegations were brought forward.

16 I refer you to Exhibit 1292 that you may  
17 see the attitude of the Department concerning the  
18 pilots' desire to see the Seaway authorities and  
19 discuss with them the refusal sent to the ship-owners,  
20 which refusal involved the ship-owners in getting  
21 District No. 2 pilots. The pilots would have had  
22 something to say in regard to these questions but the  
23 pilots were not consulted in District 2. The  
24 Department did not consult these pilots either about  
25 training or the recruiting of new pilots. All that  
26 happened was that one fine morning there was an  
27 examination and the Department engaged new employees  
28 and that was the whole end of the matter.

29 We also object to the system of civil  
30 servants being applied to pilots for another reason.





1 This system is one that is used to mask incompetence.  
2 I refer to the specific cases before this Commission  
3 of what you might call a continuous passing of the  
4 buck on the question of administrative responsibility.

5 You have had a representative of the  
6 Department of Labour explaining how the salary level  
7 was established for pilots in District 2 and 3.  
8 Now, this Commission found it quite impossible to find  
9 out how, in fact, things were handled, or how the  
10 documents were handled, and the Commission could not get  
11 these documents. It is obvious that no private  
12 entrepreneur -- no private contractor -- would handle  
13 the question of salary for his employees in such a way  
14 without there being very poor results. Indeed, another  
15 example that might be set forth is that for several  
16 years these pilots have been state employees. There  
17 is no promise in regard to these pilots in regard to  
18 recruiting or training and yet there should be time  
19 to have such a policy.

20 Finally, the final objection to the civil  
21 service system with regard to pilots is that this  
22 system is very questionable from the political viewpoint.  
23 I refer to the words at the beginning of my plea in  
24 reference to the Glassco Commission Report as quoted  
25 in our brief at page 194. In regard to this  
26 situation I understand the reaction felt by some on  
27 reading the brief of the Professional Great Lakes Pilots.  
28 When we haven't heard the evidence we are surprised  
29 by the language used. It refers to "Bureaucratic  
30 fumbling." I claim that the evidence has fully shown





1 that the allegations in these briefs were fully  
2 justified and that in this case, as is frequently  
3 the case elsewhere, reality is beyond the bounds of  
4 imagination, I think, and we respectfully suggest to  
5 this Commission that the Commission should review  
6 the policy of the Department in this regard. This  
7 Commission should express its opinion most definitely  
8 in this regard, because the Commission passes into  
9 oblivion but the civil servants remain for ever.

10 I did have a few remarks to make concerning  
11 the training of pilots. I have already mentioned  
12 the sense of responsibility that is common to the  
13 St. Lawrence pilots and which was shown in the  
14 establishment of their apprenticeship plans in their  
15 own district. They have constantly exercised  
16 responsibility in this respect. In the winter they  
17 have given courses either in the Quebec district or the  
18 Montreal district. They have trained their own  
19 pilots; and I must mention again the expenditures  
20 incurred by those pilots under the apprenticeship plan;  
21 and the preparation of these plans was simply to raise  
22 the prestige of their profession.

23 The Commission has knowledge of the length  
24 of time and the very low scale of remuneration received  
25 by apprenticeships in the past. Many of the men who  
26 are now pilots had been apprentices for four, five  
27 and six years, and during these years they went into  
28 debt; they went into debt of several thousands of  
29 dollars. I think this is a factor which should be  
30 taken into account when the Commission studies the







1 condition of pilotage in Canada.

2 At the present time we find ourselves in  
3 a situation where the Cornwall District pilots and  
4 more particularly in regard to District 1, 2 and 3  
5 pilots of the Great Lakes where there is still no  
6 apprenticeship or training or recruiting plan.

7 I believe that these are the types of  
8 situations which lead to conflicts that might otherwise  
9 be avoided, or, again, they leave the field fully open  
10 to the arbitrariness of the pilotage authorities;  
11 and clear and definite conditions governing the  
12 recruiting and training should be laid down for every  
13 pilotage district in Canada. The interested parties  
14 should be considered -- that is, the pilots should  
15 be considered -- in drafting these plans. We have  
16 recommended that the responsibility of drafting  
17 apprenticeship plans be left to each pilot corporation  
18 so as to ensure the necessary flexibility to look  
19 after the requirements in one district in comparison  
20 with the requirements in another, and which should be  
21 subject to approval by the Commissioner for Pilotage.

22 It is clear, furthermore, that  
23 provisions must be laid down to ensure reasonable  
24 remuneration for apprentices. The whole situation is  
25 quite intolerable, because it is most unjust that there  
26 are shipowners who contribute in comparison to ship-  
27 owners who do not contribute; and it is unjust also  
28 because quite obviously the levels of remuneration  
29 are very low, and this system creates quite acceptable  
30 working conditions. I would call to your attention





1 the evidence that Pilot Gilote gave in Montreal.

2 We have also suggested, furthermore,  
3 that in the choosing of candidates a committee  
4 consisting of an examiner, a master and an officer  
5 and three pilots from the district be set up.

6 We hope to have the participation of the  
7 shipowners in the drafting of these apprenticeship plans  
8 -- and I refer to the brief of the Federation at page  
9 192 (the French text) paragraph 489 and the following  
10 paragraphs; and the facts have been put before you,  
11 and the evidence has been given, concerning the  
12 difficulty in recruiting pilots where there are no  
13 apprenticeship systems in force in any district.

14 I refer to the brief of the Vancouver  
15 Chamber of Shipping and I refer to the brief of the  
16 Halifax Pilots, recommendation No. 3. In these  
17 briefs note is taken of the fact that traditionally  
18 over the years pilots were recruited but that the system  
19 used in the past no longer meets present needs and  
20 that there has been considerable difficulty in  
21 recruiting persons and that amendments must be brought  
22 in the traditional manner and... (translation not  
23 clear)...

24 Finally, we are convinced that there must  
25 be clear rules governing recruiting, and in speaking of  
26 the admission and recruiting of pilots let us go  
27 to the other extreme and speak of the retirement of  
28 pilots.

29 We have recommended... (translation not  
30 clear)... with the possibility of the pilot retiring





1 at 60 years of age if he wishes. I am producing  
2 here Article 21 of the German law.

3 As regards the financial arrangements  
4 in the field of retirement, I think that the concept  
5 we have of the pilot has important consequences.

6 The Commission has heard different re-  
7 commendations of certain parties who have suggested  
8 or made recommendations about participation in the  
9 pension fund -- who is to take part in that pension  
10 fund. The pilots of New Westminster in their  
11 recommendations.... (translation not clear)...  
12 on the Public Service Superannuation Act.

13 As regards the administration of this  
14 pension you also have recommendations, and the above  
15 mentioned... (translation not clear)... suggests  
16 administration either by the Government or by...  
17 (translation not clear)... You have the brief of  
18 the shipowners and you also have the brief of the  
19 Eastern Quebec Pilots, filed as Exhibits 1323 and 1322,  
20 where they suggest that the D.O.T. go on administering the  
21 pension fund. There is a mistake here, because  
22 actually the Government does not actually administer  
23 the pension fund.

24 The St. Lawrence River pilots suggest the  
25 possibility of each corporation establishing its own  
26 pension fund.







1 French

2 In the first place we must state the presentday  
3 context or situation mention the status that we  
4 deem appropriate for the pilots. That is a free  
5 contractor or a professional man subject to public  
6 regulations.

7 Now, if we speak about the context we  
8 see the advent of universal pension funds which are  
9 going to cover all citizens in this country. You  
10 have seen the development during the last twenty  
11 years of numerous individual or selective or group  
12 insurance plans and any individual in Canada may now  
13 buy a pension policy which may be reduced from his  
14 income tax in a general way and in the same way as  
15 if he were a member of a group pension plan to which  
16 generally employees and employers both contribute.

17 In this matter of context I would like  
18 to speak about the fact that individuals have suggested  
19 possible autonomy or separate division of these  
20 different pilotage districts and the recommendation  
21 or rather the principle that it inspires in order  
22 to eliminate this maternalistic type of relations  
23 between the State and the pilots. This makes us  
24 reach the following conclusion regarding participation  
25 in this contribution to the pension fund and adminis-  
26 tration of this pension fund.

27 To our own mind only the pilots should  
28 contribute to this pension fund. As persons with  
29 the status of pilots which is a professional contrac-  
30 tor or a free contractor or independent contractor,





1 French

2 pilots should have a pension fund or system that  
3 they would wish to obtain.

4 As regards the Public Service Superan-  
5 nuation Act, I am sorry, I do not have the exact  
6 French title of that Act, this is a generous system  
7 and an advantageous one. There are so many civil  
8 servants in Canada perhaps this is one of the reasons  
9 and one of the advantages of why many of them remain  
10 members of the civil service, but I think that their  
11 system opens the door -- what we fear at any rate  
12 is that this system reopens the door to eventual  
13 government interference in the local administration  
14 of pilotage.

15 It would stem from that, of course,  
16 there would be a change more or less in the status  
17 of pilots if in the last analysis we are asked to  
18 contribute part of the share or a certain amount for  
19 this pension fund for the pilots, why should not  
20 those pilots become prevailing rate employees and  
21 we would get to the inconsistent situation, the  
22 logical one if pilots become government employees  
23 while they should be considered as free contractors,  
24 independent contractors regulated by special  
25 regulations.

26 Now, as regards this idea of asking the  
27 government and the shipowners to pay part of this pension  
28 fund and by paying a certain amount, we believe that  
29 once more this would bring only a change of status  
30 of pilots. They would simply become simple employees





1 French

2 and the relationship between employees and employers,  
3 between shipowners and pilots -- (translation  
4 indistinct).

5 As regards the administration of the  
6 pension funds we think that these pension funds should  
7 be left to the discretion of each group of pilots  
8 provided that the participation of pilots is inclusive  
9 in this contribution.

10 If they are the only ones to contribute  
11 to this pension fund it is no longer necessary to have  
12 a collective system or plan to which each and every one  
13 would be contributing. We may very well have a system  
14 by which each and every one will choose the system  
15 he wishes by writing to any insurance company existing  
16 in Canada which have many advantageous systems at  
17 the present time.

18 We have had the experience of adminis-  
19 tration of certain pension funds provided by the  
20 government. Mr. Jones gave evidence to the effect  
21 -- he said that on many occasions the yield from  
22 these pension funds was not as great as it should  
23 have been and for the very good reason when these  
24 pension funds constituted small amounts as compared  
25 to the substantial pension fund that the Department  
26 of Finance has to administer for the government.

27 We think that there was no reason for  
28 the present Pilotage Authority to administer this fund  
29 while it would not contribute anything directly to  
30 that fund.







1 French

2 I have underlined yesterday the archaic  
3 type of provisions of The Canada Shipping Act  
4 especially in the pension fund field and these  
5 inadequacies and these provisions of The Canada  
6 Shipping Act should be deleted.

7 I have already spoken about the impos-  
8 sible situation from the point of view of a pension  
9 fund for the Quebec pilots.

10 Actually, I think it would be pertinent  
11 to say that the old legislation of 1848 or 1860 --  
12 I can't remember the exact year -- which still  
13 governs this in part; this is the old corporation  
14 of Quebec pilots which has been abolished following  
15 the report of 1914. The bylaws of the corporations  
16 of pilots are the bylaws that governed Trinity House  
17 in 1948 and so on. This is a legal situation which  
18 is a real mess, a hodge-podge which should be cleared  
19 up.

20 Within the recommendation made by the  
21 Pilots of the Great Lakes and the St. Lawrence River,  
22 it could be possible to make provisions in order to  
23 protect the rest of the pilots having the right to  
24 the pension fund to which they have already contributed  
25 and our recommendation is made to that effect. I  
26 pass on to the different recommendations that have  
27 been made.

28 THE CHAIRMAN: I think we will have a  
29 five-minute recess.

30 MR. LALONDE: I would like to finish





1 French

2 by oneo'clock.

3 ---Short recess.

4 ---Upon resuming.

5  
6 MR. LALONDE: I would still like to  
7 make a few comments relating to the recommendations  
8 made either by the Federation of Pilots or by  
9 individual groups or by Corporations of Professional  
10 Great Lakes Pilots or other Corporations of Pilots  
11 on the St. Lawrence River.

12 In the first place as regards the  
13 detention and cancellation allowance, we think that  
14 the presentday rates are inadequate and should be  
15 standardized at any rate on the St. Lawrence and  
16 Great Lakes and probably throughout Canada.

17 We ask, moreover, because of the in-  
18 efficiency of Section 344 of the Act regarding payment  
19 of pilotage dues by vessels --- (French translation  
20 indistinct) -- that the customs official must go to  
21 the vessels only after the vessels have paid the  
22 full pilotage dues. We recommend that there be  
23 similar provisions to the ones existing in the Great  
24 Lakes pilotage and in the bylaws of that Act providing  
25 the possibility of demanding the payment in advance  
26 of these dues or the payment of a bond on the part  
27 of a vessel wherever there is doubt that this  
28 vessel is solvent.

29 We recommend moroever the payment of  
30





1 French

2 an indemnity whenever a pilot goes outside the  
3 bounds of his district. The Act today provides  
4 the sum of \$15. There has been an understanding with  
5 the shipowners of \$25 a day. This agreement goes  
6 back for a few years, but despite that, the Pilotage  
7 Authority did not make the necessary amendment to the  
8 Canada Shipping Act.

9 We, sir, have suggested exemptions of  
10 payment of detention allowance for districts whenever  
11 there was -- (French translation indistinct).

12 We have recommended that this detention  
13 allowance be paid for any delay of more than six hours  
14 in the case of a definite departure of vessels.

15 I refer you to pages 217 and 218 of the  
16 French brief. I will also refer you to the evidence  
17 of Mr. Bedard in the manner and the distinction he  
18 has established between the operations during that period  
19 of the year and during the navigation season. I  
20 would like to refer you to the foreign regulations,  
21 the Manchester Pilotage Bylaws, Section 2-D of this  
22 schedule.

23 I would also like to refer you to the  
24 German legislation and the legislation in New York  
25 regarding this question of detention allowance and in  
26 the case of distress of weather, wherever there are  
27 ice conditions. In all these places detention  
28 allowances are available even in cases of distress of  
29 weather.

30 During the period from December 1st to







1 French

2 April 8th we recommend the practice of taking two  
3 pilots on board and that there be complete double  
4 tariff on the St. Lawrence, and this applies also to  
5 the Kingston District as well as in all other districts  
6 of the St. Lawrence.

7 We have underlined the great long period  
8 of time for these trips and the impossibility of  
9 anchorage, and we made mention that the presentday  
10 charge of \$100 for a second pilot -- (French transla-  
11 tion indistinct) -- for larger vessels as compared  
12 to the smaller ones would have to pay the full tariff  
13 at any rate.

14 We have also recommended an increase of  
15 penalties in the case of illegal pilotage in the same  
16 way we have recommended an increase of penalties in  
17 the case of disciplinary measures for pilots them-  
18 selves.

19 I would like you to refer to recom-  
20 mendations that have been made to require ballast in  
21 the case of low-tonnage vessels, especially in the  
22 Seaway, and the necessity of substantial improvements in  
23 the system of radio-telephone, extending to all the  
24 St. Lawrence the presentday requirements imposed by  
25 the St. Lawrence Seaway and that it consider the  
26 possibility of the establishment of a portable or  
27 walkie-talkie system on all vessels by all pilots.

28 Also the other recommendations regarding  
29 the establishment of luminous flares coupled with  
30 whistles and sirens and also instruments in the





1 French

2 wheelhouse and also the provision regarding derricks  
3 and also regarding accommodation ladders and also the  
4 requirements for an appropriate cabin for pilots,  
5 especially on the Great Lakes. (French translation  
6 indistinct).

7 And finally we have suggested a study of  
8 the possibility of establishing maritime police who  
9 would be similar to the American Coast Guard but  
10 established on the St. Lawrence.

11 I would like to press on to certain  
12 specific recommendations for given districts. We  
13 have asked for a restricted navigation area at Les  
14 Escoumains.

15 We have asked for and recommended  
16 special pilots assigned to docking in Quebec  
17 for any vessel going upstream of the river and going  
18 to berth in Quebec.

19 You will find some evidence on this  
20 subject in Volume 61-A, 67 and 108.

21 The shipowners themselves have given  
22 evidence to support such a proposal. I have mentioned  
23 the time saved. This proposal represents the fact  
24 that special pilots develop their ability in doing  
25 just that; the saving that this would represent in  
26 the use of towing vessels and the fact that certain  
27 shipowners would have pilots that would be in a better  
28 physical condition at their disposal.

29 I would like finally to refer you to the  
30 following experiences in the harbours of Southampton,





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1	French	
2	Rotterdam, Antwerp, Stockholm and New York and in	
3	the inland bases of London and Liverpool harbours.	
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1 French

2 In fact, perhaps, there are no pilotage  
3 districts in the world that are as long where the  
4 pilots dock their vessels themselves whenever they  
5 arrive at the port.

6 We have also recommended an increase in  
7 the number of pilots in Quebec, and in another field,  
8 the abolition of the limits regarding the dues payable  
9 regarding tonnage in the districts of Quebec and  
10 Montreal. As well as regards moveages in the  
11 Montreal harbour we have suggested the gradient in  
12 the dues for moveages should be extended beyond the  
13 presentday limits, of 5,000 net tons. We have  
14 recommended the Montreal Harbour pilots benefit  
15 from the same transportation allowances as exist  
16 for pilots of the district.

17 Now, as regards the Seaway and the Great  
18 Lakes, everything that has to do with the St. Lawrence  
19 Seaway -- we have recommended the establishment of  
20 linesmen on the whole Seaway as well as wheelmen,  
21 special wheelmen for any ocean-going vessel of  
22 over 3,000 net tons in the Seaway.

23 As regards the linesmen, we refer to the  
24 experience of the Kiel Canal, Manchester and IJmuiden  
25 as well as the procedure used for the Panama Canal.

26 Now, as regards the linesmen, approval of  
27 the project has been expressed so long as it be free  
28 of charge, and now we are still mentioning on the  
29 matter of cost, and the Commission will study that  
30 matter. As regards wheelmen, it is more or less





1 French

2 the same reaction: we would like to have them but on  
3 the condition that they not be paid, that they be  
4 free of charge.

5 I refer you to the following experience  
6 where you have compulsory special wheelmen in the  
7 Kiel Canal and the canal of IJmuiden and the optional  
8 system of wheelmen in the canals of Manchester and  
9 the Antwerp harbour, and you have in evidence a  
10 statement to the effect that in practice these wheel-  
11 men are used in all cases.

12 We also recommended compulsory pilotage  
13 for any vessel doing a first trip in the St. Lawrence  
14 Seaway. In fact it has been underlined that this  
15 requirement should apply rather in the case of the  
16 master or the first mate of a vessel navigating  
17 for the first time in the Seaway in the case of low-  
18 tonnage vessels, coastal vessels, and so forth.

19 We also made a recommendation, technical  
20 recommendations for the Seaway regarding which I  
21 refer you simply to the brief of the Federation of  
22 St. Lawrence River Pilots; radio-telephone operators  
23 on the bridges, transfer of the radio-telephone station  
24 from Cardinal to Cornwall, and the construction of a  
25 proper building in St. Lambert, an appropriate shelter  
26 at St. Lambert, coordination of everyday administra-  
27 tion and centralization of the billing and despatching  
28 in the Kingston District, full liberty regarding the  
29 Kingston channel, and finally, as I mentioned before --  
30 I did not mention it beforehand -- the assignment of





1 French

2 two pilots in the case of vessels towed in the  
3 Kingston District as is done elsewhere on the St.  
4 Lawrence. I think that this is simply a question  
5 of omission or neglect seeing no provision has been  
6 made in that matter.

7 As regards pilots of District No. 2 we  
8 have asked for an increase in the number of pilots,  
9 and we must note that the Canadian government and  
10 the maritime government study the possibility of  
11 increasing substantially the number of pilots in that  
12 district. We have asked for an increase, substantial  
13 increase, in their remuneration while awaiting that  
14 change in status which would make us then independent  
15 contractors under the same conditions as the St.  
16 Lawrence pilots and the American pilots on the Great  
17 Lakes.

18 Now, the boundaries of the Welland  
19 Canal for the purposes of pilotage should also be  
20 clear-cut. This rather vague situation existing at  
21 the present time creates difficulties for both pilots  
22 of District No. 1 and District No. 2.

23 I would like to underline as well recom-  
24 mendations in the system of consultation with pilots  
25 on the establishment of the rules of the tour de role.  
26 (French translation not clear).

27 We also ask for more stringent implemen-  
28 tation of the rules of the Seaway regarding the  
29 governing of vessels. We would ask for the mainten-  
30 ance of the pilot boat service at Port Weller, and in







1 French

2 the case of the state-employed pilots you should ask  
3 that without any delay the DOT take all the neces-  
4 sary steps in order to encourage and allow direct  
5 contact between shipowners and pilots, and pilots  
6 and the Authority of the Seaway.

7 Finally, the Lake Superior Pilots  
8 Association, amongst others, have suggested the appoint-  
9 ment of a sufficient number of pilots to perform duties  
10 on the Great Lakes as well as the Corporation of  
11 Professional Great Lakes Pilots, and the Lake  
12 Superior Pilots Association has asked for more accu-  
13 rate precisions regarding the issuance of certifi-  
14 cates, Class B.

15 I think on these numerous recommenda-  
16 tions you will understand I do not go in further  
17 detail as I have taken already too much time of the  
18 Commission as well as that of my colleagues; I think  
19 these recommendations as a whole have been prepared  
20 and set forth by the pilots basing themselves on  
21 their experience and the history of the St. Lawrence.

22 These recommendations have been prepared  
23 and made aiming not only to ensure reasonable working  
24 conditions that would be satisfactory to the pilots,  
25 but also to make sure that the service would be  
26 better, more efficient, for the shipowners and for  
27 the public at large which takes advantage of benefits  
28 from this maritime traffic.

29 The pilots are aware that they live out  
30 of this maritime trade, and that it would not be in





1 French

2 their interests to take steps or have steps taken  
3 whose direct impact would be to restrict the trade on  
4 the St. Lawrence and the Great Lakes.

5 We must also notice that up to now there  
6 are no indications to the effect that these steps  
7 already taken have had repercussions on the growth  
8 of this maritime trade on the Great Lakes and all  
9 throughout Canada, and the pilots before making these  
10 recommendations, made a study in depth, a protracted  
11 study of the different pilotage systems existing  
12 elsewhere throughout the world, and they took great  
13 pains to hire advisers, experts in different fields  
14 in order to be properly advised as regards the best  
15 possible recommendations to be made to this Commis-  
16 sion.

17 I think that it is in this light that  
18 these recommendations should be studied and examined  
19 and discussed. These pilots, as I stated at the  
20 start of my summation, have placed great hope in  
21 this Commission in the same way as they have used  
22 a great deal of effort preparing for it. I think  
23 that all the recommendations that have been made by  
24 the pilots -- I wouldn't say only by the pilots on the  
25 St. Lawrence and the Great Lakes but throughout  
26 Canada -- and by the shipowners show at any rate  
27 three concerns or three tendencies.

28 First of all, there is a request for  
29 greater local autonomy or independence, and the  
30 second which is closely related to the first one,





1 French

2 tends towards administrative decentralization, and  
3 the third one would be of planning of different roles  
4 and duties. I think that whatever the brief, we  
5 find ever present this general tendency in all the  
6 briefs that have been submitted.

7 Naturally this Commission will now face  
8 a most delicate task on the one hand. Of course the  
9 Commission will have to avoid the system that may  
10 lead to anarchy. That is why in our recommendations  
11 we have attempted to underline the fact that to our  
12 mind the pilot is an independent contractor, that  
13 he is subjected to public regulation. He is sub-  
14 jected, moreover, to supervision, public super-  
15 vision. But on the otherhand this Commission --  
16 and this is its most delicate task -- has to avoid  
17 anarchy on the one hand and also avoid or try to  
18 avoid the establishment of a system that would lead  
19 to a new administrative concentration or centraliza-  
20 tion.

21 English

22  
23 MR. LALONDE: I know that this function  
24 is going to be a very difficult one for this Com-  
25 mission. On the other hand I do not think it is  
26 insurmountable by any means, and I am convinced that  
27 it is possible to adopt a system which will both  
28 satisfy the needs of the service, that will provide  
29 an efficient service to the shipowners, and at the  
30 same time will guarantee these men, the pilots, a







1 English

2 real role in the administration and operation of  
3 pilotage; a role which will be commensurate with  
4 their experience, with their ability, which I think  
5 they have demonstrated, and which will, in addition,  
6 be more in line with what we conceive as being a  
7 society, a democracy, of the type we have.

8 I myself have had occasion during the  
9 last four years -- over four years now -- of working  
10 very considerably with these men. Certainly as  
11 clients, but also as friends. I have had the oppor-  
12 tunity of knowing a large and substantial number of  
13 them all over Canada, and I am convinced that they  
14 are as competent, as competent, they are as able a  
15 group of men to run their own business as any other  
16 group of men in this country.

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19 -





1 English

2 I think that the pilots, as I said,  
3 have put a lot of confidence in this Commission and  
4 I think that if this Commission and the Government  
5 reciprocate there will result for this country a  
6 pilotage service which will be to the satisfaction of  
7 the shipowners, of the pilots and of the public, and  
8 it will result, I am sure, in one of the best pilot  
9 services in the world, which it is already, if you  
10 consider the work carried by these men.

11 I apologize for having taken so much of  
12 the time of this Commission. To tell you the truth  
13 I thought I would be much shorter; but you must rea-  
14 lize how important this Commission is to the Canadian  
15 pilots.

16 I was telling somebody yesterday that I  
17 supposed there will not be another Commission, or I  
18 hope not -- well, my clients hope not, but I shouldn't  
19 hope not! -- that there will not be another Commis-  
20 sion for the next fifty years, and it is very likely;  
21 and when you think that the recommendations of this  
22 Commission will have an influence on what pilotage  
23 will be and what the life of these men will be during  
24 the next twenty-five, thirty, or fifty years, you  
25 must realize how important it is to these men that they  
26 should seek and that they should try to put as fully  
27 as possible their case, their argument and their  
28 opinions on what should be the operation of pilotage  
29 in this country.

30 As I said at the beginning, the pilots





1 English

2 have opened all their books; they have come forward  
3 and testified in large numbers before this Commission;  
4 they have given to this Commission all the information  
5 they had available; and our only hope now is that this  
6 Commission, having studied all this testimony, all  
7 this evidence, and maybe listened to all this argument,  
8 will come to a conclusion which will prove satis-  
9 factory to everybody.

10 Thank you.

11 THE CHAIRMAN: We have a few questions  
12 that we want to ask you.

13 MR. LALONDE: Yes.

14 THE CHAIRMAN: Commissioner Smith, will  
15 you ask your questions?

16 COMMISSIONER SMITH: Well, first of  
17 all, I would like to say, my lord, as a humble member  
18 of this Commission, that I have listened for two and  
19 a half days to the able presentation of the arguments  
20 of Mr. Lalonde, and I think that I shall cherish this  
21 privilege for a very long time.

22 I have a couple of questions, my lord, I  
23 would like to ask Mr. Lalonde. One of them, I think,  
24 I posed during one of the hearings. It has to do  
25 with the question of the pension scheme and, mainly,  
26 the objection, as I understand it, of the pilots to  
27 inclusion in the civil service superannuation scheme,  
28 which, I think, will be admitted by all, is a most  
29 generous pension scheme.

30 Now, I am quite well aware that there







1 English

2 could be no inclusion or joining of that scheme unless  
3 and until the Act is amended to provide the avenue  
4 where it could be taken advantage of. I don't see  
5 any objection to an amendment, as a lawyer and having  
6 regard to some experience that I had while I spent  
7 many years as a civil and public servant, but I can  
8 give you one illustration. I see no objection to  
9 it except in the negative mind of the average civil  
10 servant, and I was one of them, and I have that same  
11 kind of mind; but I was connected with an organiza-  
12 tion where it so happened that all the top members  
13 had the advantage, or the benefit, of the civil  
14 service superannuation scheme but none of the em-  
15 ployees had it. Well, it was a most unfair situa-  
16 tion and it was decided that we should have a scheme  
17 of our own. We had tried time and again to persuade  
18 the authorities -- this is many years ago -- to get  
19 into the permanent scheme, but they said No, it  
20 can't be done. There was always the negative atti-  
21 tude.

22 Well, we formed a scheme of our own at  
23 considerable expense, and after we got a scheme of  
24 our own, later on -- some years later -- the Act was  
25 opened up and amended and we were all taken into the  
26 government civil service superannuation scheme.

27 I would like to make this comparison,  
28 because some might say it can't be done, because of  
29 your definition of a pilot this morning -- and correct  
30 me if I misquote you -- as a free contractor subject





1 English

2 to public regulation and supervision.

3 Now, it would seem to me -- and I am  
4 not suggesting that the pilot should be a public ser-  
5 vant, or a civil servant -- I am not suggesting that  
6 -- but I am saying that he is in the realm of occu-  
7 pations that certainly bear a close relationship to  
8 the public service -- the public good and convenience  
9 and necessity in carrying on international commerce  
10 through the position he occupies as a pilot; so that  
11 I would think he is pretty well able to qualify to  
12 say that he is entitled to come in under this scheme.

13 Now, I know that the point you raised  
14 with regard to the contributions, and if contributions  
15 were made by other organizations than pilots, then  
16 where would be some sort of an obligation that the  
17 pilot would not want to assume, so that they would  
18 rather be on their own. All right, let them be  
19 on their own and let them contribute the full amount  
20 of the contribution in order to secure the benefits  
21 and to pay the carrying charges of the Superannuation  
22 Act, which is 13 per cent of their salary.

23 Now, would there be very much objection  
24 if that sort of a scheme could be worked out, whereby  
25 the pilots would pay the full amount of the contri-  
26 bution and get the full amount of the pension?

27 MR. LALONDE: I understand your point,  
28 that the government would not contribute a cent and  
29 the full contribution would be from the pilot?

30 COMMISSIONER SMITH: Yes.





1 English

2 MR. LALONDE: I don't think there would  
3 be any objection, because again, in principle, The  
4 Superannuation Act fund would become pretty well  
5 like any other trust company fund.

6 COMMISSIONER SMITH: I agree.

7 MR. LALONDE: And if the pilot pays the  
8 full contribution there is no problem. I don't  
9 think that we would have any objection in that  
10 respect.

11 Our objection is that as the system now  
12 stands the government does contribute a share of it,  
13 and once you start doing this you risk further en-  
14 croachment, further government intervention, in a  
15 field where the government does not need to inter-  
16 vene, in our opinion.

17 But if it were possible that the  
18 superannuation fund were to become like any other  
19 fund, really, an individual paying the full contri-  
20 bution, I think there certainly wouldn't be any ob-  
21 jection.

22 COMMISSIONER SMITH: That is the type  
23 of scheme I had in mind.

24 MR. LALONDE: Well, I am sure that my  
25 clients would be in full agreement with that; I am  
26 convinced of that.

27 COMMISSIONER SMITH: Then, the other  
28 question that I wanted to bring up -- first of all I  
29 want to say this, that far be it from me to suggest  
30 the creation of high government policy that would







1 English

2 involve the expenditure of large sums of money -- I  
3 am not doing that, and I hope that the question I  
4 ask will not be interpreted as such, because I  
5 wouldn't be foolish enough to suggest what that  
6 government policy should be, which would certainly  
7 be resented, quite properly, by those in authority,  
8 and I am not doing it -- but I would like to pose  
9 a theoretical question that might, perhaps, be better  
10 understood and which would give a better answer, and  
11 it is this: That you will recall, or those who were  
12 acting for the pilots will recall, that in Toronto and  
13 in Hamilton there was violent evidence -- well, I  
14 shouldn't say "violent", because I don't think there  
15 is such a thing as violent evidence -- but there was  
16 strong testimony given against the pilots' operations  
17 in those two ports on account of the American pilots  
18 going in there; and you have touched this morning on  
19 this question and you have raised the point of, I  
20 think, what might be stated as the overbalancing  
21 financial advantages to the pilot because of the  
22 work that he has in harbours in the United States --  
23 be sure to correct me . . .

24 MR. LALONDE: And to the shipowner.

25 COMMISSIONER SMITH: I beg your pardon?

26 MR. LALONDE: To the shipowner also; I  
27 said that there may be advantage to the shipowner also  
28 in the system, financially speaking.

29 COMMISSIONER SMITH: If -- and this is a  
30 great big "if" -- at some time in the future there





1 English

2 was established an all-Canadian seaway which would  
3 involve new locks, or a series of locks, at Cornwall,  
4 it would mean the building, I think, of a new lock at  
5 the Soo -- the one there has only got a depth of  
6 18 feet, I am told, and 60-foot beam, and there are  
7 some tremendous difficulties, I understand, there  
8 because of the nature of the construction of the  
9 soil and solid rock and rather a lot of expense  
10 involved in blasting the approaches to it and so on;  
11 and I understand there is a third difficulty in the  
12 Detroit and St. Clair rivers where, going upstream,  
13 seventy per cent of the traffic uses the Canadian  
14 waters, and, coming downstream, the reverse --  
15 seventy per cent of the American traffic uses the  
16 American waters.

17 Now, getting down finally to the  
18 question: If all those great big things were  
19 eliminated and we have an all-Canadian seaway would  
20 that rectify the situation and satisfy the Canadian  
21 pilots in the operation of the all-Canadian seaway?

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1 English

2 MR. LALONDE: I would have a tendency to  
3 answer, of course, we will cross that channel when we  
4 come to it because I think that you are certainly  
5 maybe looking more than fifty years ahead and that  
6 this may be the subject of a further Royal Commission  
7 in fifty years; but let us say it is going to be  
8 done soon. Well, yourself, I think you raise the  
9 difficulty of St. Marys River, for instance, and there  
10 is a situation that the lakes -- the open waters of  
11 the lakes are considered international waters and  
12 this is a hypothetical case you are putting and I am  
13 giving my own reaction and opinion when I say this.

14 But, my own reaction would be to come  
15 to the conclusion that probably the best system would  
16 still be a system of joint operation on roughly the  
17 same basis as it is now, parity all over the lakes  
18 and all that for Canadians; as far as the advantages  
19 to the Canadians are concerned.

20 I would think that would be the best  
21 system because even if you have a double canal or a  
22 double seaway, an all-Canadian one plus the other  
23 one, which will remain in operation anyway, I am  
24 sure that there would have to be international agree-  
25 ments as to rates and all that and all spheres where-  
26 as if there are pilotage rates or Seaway rates, I  
27 am pretty sure that the United States government will  
28 not allow a system to be developed in which it would  
29 cost \$50 less, for instance, to cross the Welland  
30 Canal for pilotage dues or not the Welland Canal, I







1 English

2 am wrong there, that is all-Canadian, but let us  
3 say the St. Clair River or in the Seaway itself or  
4 if you take Eisenhower or Snell on the Canadian part.  
5 I think it will need to be continued on a system of  
6 joint operation even if it is Canadian ownership.

7 My own feeling would be the present  
8 approach is the most advantageous one to Canada  
9 because there is no doubt the economic strength is  
10 going to be on the American side along the lakes for  
11 a long time to come.

12 COMMISSIONER SMITH: Thank you very  
13 much.

14 THE CHAIRMAN: Any questions?

15 I see that you have not touched the  
16 evidence that we received from the computing devices.  
17 I was wondering whether that was intentional or not.

18 MR. LALONDE: It was intentional, my  
19 lord, that I did not touch it.

20 Most of it -- it was quite clear the  
21 evidence from computing devices was quite clearly  
22 oriented on the establishment of a central information  
23 centre. That is really information. It was  
24 quite clearly put out by Captain Morrison that this  
25 system they were proposing was not a system directing  
26 ships and really taking over the conduct of the ships,  
27 or anything of that sort. The system was how to make  
28 more information rapidly or immediately available  
29 to all maritime traffic, and as far as that is con-  
30 cerned, the pilots, like I am sure everybody interested





1 English

2 in the matter, would be in favour of any improvement  
3 which increases the information, the speed at which  
4 information is relayed. There is no doubt about it.  
5 It is just a matter of cost, upon which we are not  
6 in a situation to pass judgment.

7 I think we can only make the general  
8 comment of saying "More information is good".

9 THE CHAIRMAN: It is not to say that  
10 the pilots will work on more improvement in relation  
11 to the telephone communications between Quebec.

12 MR. LALONDE: No, I should not con-  
13 clude that.

14 THE CHAIRMAN: So, that is all right.

15 MR. LALONDE: I wish to say a word  
16 about what Commissioner Smith said about the pilot  
17 as a private contractor subject to proper super-  
18 vision and regulation, and I just want to make a  
19 short comparison with the notaries in the Province  
20 of Quebec who are professional men, whose tariffs  
21 are established and approved by the Governor-in-  
22 Council and whom you are obliged to consult and  
23 to use if you want to carry out a certain type of  
24 transaction. I think you have there a profession  
25 which is free in the traditional sense but which is  
26 also subject to supervision and regulation, but I  
27 think that what we have in mind in pilotage is  
28 certainly greater supervision than there exists  
29 for notaries in the Province of Quebec obviously  
30 because they do supervise themselves quite well. It





1 English

2 is a different type of setup and organization.

3 I just wanted to press the fact that  
4 because the government approves and sets up a tariff  
5 does not automatically change the status of the  
6 person.

7 THE CHAIRMAN: We shall reconvene this  
8 afternoon at two-thirty.

9  
10 ---Luncheon adjournment.

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1 ---UPON RESUMING AT 2:30 P.M.

2 THE CHAIRMAN: Proceed, Mr. Brisset.

3 MR. BRISSET: My Lord and Gentlemen,  
4 let me first of all say myself, on behalf of the  
5 Shipping Federation, I join in the good wishes expressed  
6 by my learned friend on behalf of the pilots. I will  
7 wish particularly to the members of this Commission  
8 health and endurance in the face of the formidable  
9 task that lies ahead. I will not express the wish  
10 that out of the deliberations of this Commission --  
11 sound and wise decisions will come out; of that I am  
12 sure -- what I will wish for most strongly is that when  
13 these recommendations are issued action will be taken  
14 upon them and taken quickly by the proper government  
15 agencies or Parliament as the case may be.

16 I would like at this stage to  
17 give a brief outline of the plan of my address. I hope  
18 I will not be as long as my friend, and that is not  
19 intended to be a criticism, for his presentation was  
20 most able. Perhaps the ship owners have less to ask  
21 than the pilots.

22 THE CHAIRMAN: But we are here to hear  
23 you so take whatever time you wish.

24 MR. BRISSET: During the course of  
25 my address, My Lord, I will refer to some part of the  
26 evidence and some Exhibits. Due to lack of time I may  
27 not be able to give the exact reference, but knowing  
28 how competent the staff the Commission has, I will rely  
29 on the Commission's staff to fill in the missing  
30 references.





1 In my general remarks, My Lord,  
2 I will comment on some of the points made by Mr. Lalonde,  
3 particularly on the guiding principles which must be  
4 the basis of the structure of a sound pilotage  
5 legislation and of an efficient administration. I will  
6 also comment on the causes of the conflicts that have  
7 arisen and have been particularly acute during the  
8 last four or five years. Then I will pass on to a  
9 review of the recommendations of the Shipping Federation.

10 I will deal, or rather I  
11 should say here that the recommendations of the  
12 Shipping Federation, as contained in Volume 1, were  
13 primarily directed to pilotage in the St. Lawrence  
14 River and on the Great Lakes, but I will want to show  
15 that they can fit into a general pilotage scheme for  
16 the whole of Canada, and I will put particular emphasis  
17 on the constitution and powers of the Central Board  
18 of Pilotage Commissioners which we advocate, and on  
19 the constitution and powers of the local Pilotage  
20 Authority which we also advocate as having considerable  
21 themselves powers and duties in the administration of  
22 pilotage at the local level.

23 I will then review and analyze  
24 some of the recommendations contained particularly in  
25 the brief of the Federation of St. Lawrence Pilots with  
26 which the shipping industry is not in accord.

27 Your Lordship and you gentlemen  
28 will have noticed in reading our main brief that we have  
29 spent a good deal of time reviewing the conflicts of  
30 prior years and in giving a history of the events that





1 have occurred during these years, and which have led  
2 to the appointment of this Commission.

3 I do not know if I misunderstood  
4 my friend, but I feel that he was intimating that  
5 perhaps in our brief there had been attacks against  
6 the pilots. I want to say right away that if attacks  
7 there were, they were more against the system than  
8 against any pilot in particular or any group of  
9 pilots.

10 We have felt that the history  
11 of the conflicts and problems that have arisen during  
12 the last few years have had to be reviewed before  
13 this Commission as this Commission otherwise would  
14 never have comprehended what was wrong in the system.  
15 We have done it because we wanted to show the  
16 mistakes that were committed in the past in order to  
17 avoid them in the future, and we think that this  
18 was a proper approach.

19 In fact, the Commission I am  
20 sure has learned so much about what has happened  
21 in the past and has heard so many different views  
22 and opinions that I think it is not asking too much  
23 that this Commission, in its recommendations, do break  
24 new ground. I think there is enough material before  
25 this Commission to justify it in leading the way,  
26 going further than possibly anybody else has gone,  
27 not only in Canada as a result of the works of  
28 previous Commissions, but also further than anybody  
29 else in the pilotage world has gone.

30 In his address before you Mr.







1 Lalonde has indicated three causes for the conflicts  
2 that have arisen in the past few years. His first  
3 one he expressed in this manner: The desire of the  
4 pilots to improve their working conditions. I  
5 submit to Your Lordship that this is a perfectly  
6 normal desire, something that you will find in  
7 every phase or corner of the industrial world, or  
8 professional world, if you wish. Perhaps at times  
9 the means used, and I am referring here to the  
10 shipping industry insofar as it was affected, were  
11 not always the proper means, but perhaps that was  
12 also due to the system.

13 I have in mind particularly  
14 the strike action taken in 1957 in the Kingston  
15 District to force the government to impose compulsory  
16 pilotage in that particular District on lake vessels.  
17 The action taken unfortunately affected principally  
18 the ocean vessels, and therefore those from whom  
19 the pilots were really earning their living.

20 The other incident I want to  
21 refer the Commission to is the strike in 1962 which  
22 was to force the government, and I think that was the  
23 main cause of this action, to abandon its project of  
24 saddling the pilots with part of the administrative  
25 cost of pilotage in a number of Districts in order  
26 to reduce these earnings.

27 It is unfortunate that to  
28 obtain from the government a declaration of policy  
29 these means have had to be resorted to, but again  
30 perhaps it is the system that was at fault.





1                                   The other cause of the conflict  
2    which my learned friend has mentioned, and I use  
3    his words, was the ultra-conservative attitude of  
4    the ship owners. This is perhaps, and I am referring  
5    here to the two causes just mentioned, oversimplifying  
6    the problem because I think in industry  
7    particularly this is a normal phenomenon. The  
8    employee will ask for greater benefits and the employer  
9    will resist them. It is a normal process in our  
10   democratic way of life. That is why I say that the  
11   causes of the conflicts that were just given may  
12   be an over-simplification of the problems.

13                               In fact what has developed is  
14   what I will call a philosophical chasm between the  
15   ship owners' conception and the pilots' conception  
16   of the basis on which they should be remunerated  
17   for the work done. That is the main cause of the  
18   conflict.

19                               There was a third one which he  
20   mentioned, and this third one was the inefficiency  
21   of the administration. In this regard I will say I  
22   do not think we should say that it was because of  
23   the incompetence of individuals, but because, again,  
24   of the deficiency or deficiencies in the instrument,  
25   legislative and executive, with which they had to  
26   work.

27                               One role, as I see it, of the  
28   Pilotage Authority in the face of the normal and  
29   natural conflict between employer and employee, pilots  
30   and ship owners, is to conciliate these differences.





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1 In this regard I must say that the Authority failed  
2 and it failed for many reasons that perhaps should  
3 be better developed during the latter part of my  
4 address.  
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1 I do recall, for instance, that  
2 when this question of target income came on the  
3 negotiating table, the government authorities seemed  
4 to accept the viewpoint of the ship owners, and  
5 proposals were made on the basis of this concept;  
6 but in the light of the resistance of the pilots  
7 at the time to such a concept, nothing further was  
8 done. In other words, there was not a clear-cut  
9 policy established, a policy which the government  
10 was prepared to follow to its logical conclusion.

11 There are other deficiencies  
12 in the system and I will only mention the main ones  
13 which were already noted by my learned friend and  
14 with which we cannot but agree, and I quote: "The  
15 confusion of the functions of the Pilotage Authority  
16 and the Minister of Transport." I think this has  
17 become apparent to everyone in the evidence before  
18 this Commission, and action taken which was not  
19 supported by the legislative provisions contained  
20 in the law; that is, in many respects there are  
21 lacune -- if I can use the French word -- in the  
22 shortcomings in the legislation. He mentioned the  
23 absence of political definition. I think I have  
24 already mentioned that. There is the absence of a  
25 policy, period; and when I say "the absence of a  
26 policy", there is the absence of a policy that will  
27 be followed to its logical conclusion to bring about  
28 the results which the policy contemplates.

29 Then, excessive centralization  
30 at the administrative level, at the central government





1 level. These, I agree, are the main faults of the  
2 system which has led to the conflicts reviewed in  
3 our brief.

4 If I may speak in a lighter  
5 vein at this stage, my learned friend has referred  
6 to the old days when the ship owners were treating  
7 the pilots with a paternal attitude. I construe  
8 this as meaning that the ship owners were treating  
9 the pilots as children around the negotiating table.  
10 In the last few years I must say this attitude  
11 changed and the pilots were treated as adults and  
12 they have been complaining that they have been  
13 treated too roughly. They can hardly get the best  
14 of two worlds.

15 They have raised objections  
16 to the concept that there should be an employer-  
17 employee relationship between the ship owners and  
18 the pilots, but it is amusing to note that they say  
19 there should not be such a relationship when you  
20 speak of the earnings or the emoluments of the  
21 pilots; but when you speak of the responsibility  
22 of the pilot the pilot's suggestion is that he  
23 has none of the responsibility. Again, it seems  
24 that they want the best of two worlds.

25 In matters which are matters  
26 which are related to what we call labour, the pilots  
27 do not want to be classified as labourers -- and I  
28 use here the generic sense -- but as professionals;  
29 but they want to have the same rights as labour,  
30 namely, the right to strike. So there is, it seems







1 to me, a contradiction in the concept that has been  
2 developed before this Commission as to what the  
3 pilot is -- what is his status.

4 Now I pass on to some of the  
5 guiding principles that should be the basis of the  
6 structure of an efficient pilotage administration  
7 and of the legislation that will create it. My  
8 friend, Mr. Lalonde, has named, or listed, quite a  
9 few principles, and I may want later on to comment  
10 on some of them, but I would like to state at this  
11 stage that there are other factors that should also  
12 be considered in the light of what you hope to  
13 achieve by way of legislation and consequent  
14 administration -- and I address myself particularly  
15 to the Canadian situation.

16 One of the factors that should  
17 always be kept in mind is the importance of a  
18 maritime policy in Canada and its role in the Canadian  
19 economy. Canada relies a good deal not only in its  
20 maritime internal commerce, but also on its exports  
21 and on its international maritime commerce, and it  
22 is particularly in this latter field that we see a  
23 constant evolution or a change in patterns.

24 I will give some examples of  
25 this: The Commission is well aware that during the  
26 last ten or fifteen years -- say the last ten years  
27 particularly -- we have seen the disappearance of  
28 the Canadian ocean-going merchant marine. On the  
29 contrary, or as a balance or as a counterweight, we  
30 have seen the development and increase of Canadian







1 shipping companies offering shipping services but  
2 using as the instrument foreign chartered tonnage.  
3 I refer in this regard to the brief of the Canadian  
4 Shipowners Association, brief number 55, where  
5 some statistics are given: At the end of 1963 there  
6 were 21 Canadian companies operating 209 ocean-going  
7 ships. Most of them -- and I think the figure was  
8 of the order of nearly 180 -- were ships of foreign  
9 flag. The Commission has heard witnesses from two  
10 of these companies -- and probably two of the most  
11 important in Canada -- Saguenay Shipping Limited and  
12 Federal Commerce and Navigation Company Limited, and  
13 the Commission was shown how their operations were  
14 performed in relation to obtaining the tonnage  
15 required for their services, and we have in the  
16 record forms of charter parties in use by Canadian  
17 operators.

18 What is of importance is that  
19 the Commission will find, as is shown in the evidence,  
20 that under these forms it is the Canadian operator  
21 who is responsible for the cost of the pilotage. That  
22 is part of the burden which he assumes in the  
23 operation of his vessel.

24 More and more in the industry --  
25 and I am thinking at the moment of the chemical  
26 industry and the newsprint industry -- the Canadian  
27 exporter will go on the world market and charter  
28 ships on a time-off-voyage basis for the purpose of  
29 carrying the cargoes being exported to foreign  
30 countries.





1 Patterns of traffic also  
2 change. You will see, or have seen, and you will see  
3 in the future, an enormous growth in the traffic  
4 from Labrador and Quebec in the Great Lakes, for  
5 instance, or from Nova Scotia into the Great Lakes,  
6 and newsprint shipment from the Maritimes and Quebec  
7 into the Lakes; and I refer here -- because this  
8 is not in evidence -- the speech of Senator Donald  
9 Smith at page 154 of Volume 113, No. 12, March 13,  
10 1964, of Hansard, when Bill No. 7 -- the bill to  
11 amend the Canada Shipping Act -- came for second  
12 reading before the Senate.

13 There has been, I submit, a  
14 remarkable development in the Canadian lake fleet,  
15 and every now and then in the newspapers we read  
16 about the officers of the American Lake Carriers  
17 Association complaining of the competition they  
18 have from the Canadian fleet, complaining about the  
19 dwindling American lake fleet. So this has to be  
20 taken into account when thinking of legislation in  
21 matters of pilotage and in administration of this  
22 system.

23 But there is another factor  
24 to be considered and that is the instrument through  
25 which the pilotage act is exercised -- I am speaking  
26 of the ship -- which is in a continuous state of  
27 evolution from a technological point of view. It is  
28 slow, perhaps, in certain respects, but extremely  
29 rapid in others, particularly in the field of  
30 electronics.





1 I have in mind here electronics  
2 and engineering, and I have in mind here developments  
3 that have a direct effect on the pilotage act --  
4 and by the "pilotage act" I mean only the handling  
5 of the ship and the navigation of the ship. On the  
6 engineering side I just want to name a few. You  
7 have, for instance, the variable-pitch propeller  
8 which has come into its own.

12 -

19 -

27 -







1                   You have engine control from  
2     the bridge. You have these buoy and lateral thrust  
3     propellers that assist in docking ships and  
4     maneuvering in very close waters when they make an  
5     approach to a wall and so forth. You have also  
6     forward pitch propellers.

7                   In the field of electronics  
8     you have, of course, radar. I think your Commission  
9     is pretty familiar with it and that it is an aid  
10    to navigation. You have radio-telephone, bow to  
11    bridge closed television circuit, shore-to-ship radar  
12    control which if it is not at least in this country  
13    already in effect, I think it is in effect in some  
14    of the foreign ports; and others that I do not  
15    require to name at this stage.

16                  You have also continuing  
17    improvements in aids to navigation in the channels  
18    in restricted waters and the maintenance of these  
19    aids is also improving and easing in many ways the  
20    navigational problems of the pilot.

21                  You also have methods of traffic  
22    control which I am sure will be put into effect in  
23    the years to come and which are also in the process  
24    of improving. This is a normal evolutionary process.

25                  I want to say a word here about  
26    the brief of Computing Devices, brief No. 42 and  
27    Exhibit No. 1403. I agree with my learned friend that  
28    the main purpose of the scheme or project developed  
29    in these two documents is to permit quicker and more  
30    reliable, more accurate information on the movement of





1 ships but that has a relation to the dispatching  
2 of vessels from the point of view of the administration  
3 of the pilotage services and it has also for an  
4 object the elimination, I would say, of duplication  
5 in the dispatching system in the sense that here  
6 you can obtain what in other fields is not good. You  
7 can obtain centralization of the services and  
8 consequently more efficient dispatching and less  
9 costly services.

10 I have gone into this to show  
11 that the practice today in the administration of  
12 the pilotage services or in the performance of the  
13 pilotage act, which is valid, may not be valid  
14 tomorrow because of the changes and of the evolution  
15 process and therefore in drafting legislation to  
16 establish the structural administrative system, you  
17 have to have legislation which is broad and elastic  
18 which will go along with the evolution process and  
19 not strangle it because pilotage must follow the  
20 progress that is taking place in the technological  
21 field.

22 I am making this point and  
23 will show later on in what respect, for instance, the  
24 legislation has to be broad and elastic. The other  
25 factor or guiding principle I want to put before the  
26 Commission is that pilotage is, I agree, a public  
27 service, but it is also a business and it must be  
28 administered as a business if you want to promote  
29 efficiency all along the line.

30 In matters of administration you





1 should therefore avoid, when having to make decisions,  
2 being guided by political expediency. Too many of  
3 the decisions on the administrative level have been  
4 taken in the past that have been guided by political  
5 expediency rather than by good business sense.

6 One last guiding principle  
7 which I want to submit to this Commission is that  
8 what has happened on other countries in matter of  
9 pilotage, because there also there has been  
10 evolution, should not be an absolute guide for what  
11 should be our structure here.

12 I will say this: As far as I  
13 know there is nothing comparable to the St. Lawrence  
14 traffic route and the Great Lakes anywhere else in  
15 the world, and that the traffic in these routes  
16 should not be stopped is of extreme importance to  
17 the economy of our country; not only stopped, but  
18 promoted.

19 I would say that the breakdown  
20 of pilotage services along the St. Lawrence traffic  
21 route and the Great Lakes can be for our country  
22 a catastrophe. I don't think a similar situation  
23 exists anywhere else. You might have a stoppage  
24 of pilotage services, for instance, in Le Havre,  
25 in Rotterdam and even in some of the larger ports.  
26 I don't think that the effect -- I must say I am  
27 not an economist and I am speaking on my own -- I  
28 don't think that the effect can be as catastrophic  
29 as it can be with a similar breakdown in our St.  
30 Lawrence trade route.







1 My learned friend has  
2 enumerated or listed a number of other factors or  
3 guiding principles. I simply want to comment on a  
4 few of these. He has stated, and it is a very  
5 broad statement, that the justification for pilotage  
6 is a protection of public property and the  
7 efficiency of the maritime traffic. In other words  
8 to promote both or insure both. With that I could  
9 not but agree. I don't think this requires any  
10 further comment. I also agree with his statement --  
11 and I think that I can say this on behalf of the  
12 shipping industry -- in some Districts, in some  
13 cases, one will be the important factor and in  
14 others it will be the other factor. Everything  
15 depends on the locality, the particular circumstances  
16 of the area where the pilotage services have to be  
17 rendered.

18 His second principle was that  
19 public interest requires that the supervision of a  
20 pilot be under the supervision of a public authority.  
21 That also I think cannot be denied. However, I don't  
22 think that so long as in some way pilotage is under  
23 the supervision of a public authority, the adminis-  
24 tration thereof can be entrusted to the pilots  
25 themselves. The mere fact that this administration  
26 is under public scrutiny does not justify in itself  
27 leaving to the pilots themselves the administration  
28 of the services.

29 What I am driving at here, and  
30 I will cover this more fully later on when I come to





1 the recommendations, what I am driving at here is  
2 simply this: You might be an excellent pilot, and  
3 I have no hesitation in saying that we have excellent  
4 pilots in Canada and particularly on the St. Lawrence  
5 River; but to be an excellent pilot does not mean  
6 that you would be an excellent administrator.

7 The reverse is equally true.  
8 You can be an excellent administrator but you are  
9 not necessarily because of that, again I am sure,  
10 an excellent pilot.

11 These are two different spheres  
12 of activity, particularly when you think of  
13 administration in the business sense. I am not  
14 speaking of administration in the sense of giving,  
15 or at least administration in the sense that it is  
16 related closely to the pilotage act.

17 On the decentralization of the  
18 powers of administration, as we have had them  
19 centralized in Ottawa the last few years, I believe  
20 everyone is in agreement on this score. I do not  
21 think I have seen a brief or evidence -- perhaps one,  
22 but I am not too sure -- to the contrary, that we  
23 should have decentralization.

24 One principle with which I  
25 am afraid I will have to disagree but disagree in  
26 theory because it is, to a certain extent, related  
27 to the economic aspects insofar as the country is  
28 concerned, is that the cost of the services must be  
29 borne by the users.  
30





1 This is purely an economic  
2 problem that has to take into account the particular  
3 economic situation of Canada, and although I will  
4 at this stage indicate disagreement with the broad  
5 principle that it should at all times be at the  
6 cost of the users, I will refer to this particular  
7 point later in my address.

8 The other guiding principles  
9 listed by my learned friend perhaps, if I may say,  
10 are of lesser importance, but they will come also  
11 later in my address, and I do not want to spend more  
12 time on this at this stage.

13 There is one recommendation  
14 which is not made as a specific recommendation in our  
15 brief, but with which we are in entire agreement with  
16 many of those who have appeared before this  
17 Commission, and it is that the present pilotage  
18 legislation should be repealed and that a complete  
19 new legislation on pilotage should be enacted and in  
20 this legislation we should break new ground.

21 I have made a review of some of  
22 the main briefs presented before this Commission, and  
23 I think it is important for me here to indicate the  
24 views of the organizations or associations who have  
25 made similar recommendations.

26 I refer first of all to the  
27 brief of the Canadian Ship Owners Association, brief  
28 No. 55, paragraph 10, page 5. The Association  
29 recommends repeal of part VI and other pertinent  
30 sections of the Canada Shipping Act to be replaced by







1 statutory powers, directing the Governor-In-Council  
2 to establish a national pilotage commission vested  
3 with the authority to control and administer all  
4 pilotage in Canada, directly or by delegation, as  
5 may be desirable, and so forth. What is contained  
6 here is a strong recommendation for new legislation.

7 The Dominion Marine Association  
8 in its brief, No. 39, does not speak actually, if  
9 my recollection is correct, of a new legislation,  
10 but at least it says this at page 29: The Association  
11 further contends that the present system of pilotage  
12 administration used in Canada is unsatisfactory and  
13 should be replaced by a system whereby pilotage  
14 on a national scale is administered by a commission  
15 or board reporting to Parliament through a Minister.  
16 That would require also new legislation.

17 The Federation of St. Lawrence  
18 River Pilots, I do not need to quote them. They have  
19 expressed their views very strongly on this score.  
20 Although in his address my friend, Mr. Lalonde, did  
21 not quote the words, we have "The Canada Shipping  
22 Act is completely out of date and in a deplorable  
23 juridical state".

24 The Canadian Merchant Service  
25 Guild also in its brief, No. 53, recommendation one,  
26 says: "It has become imperative to have a separate  
27 Pilotage Act". I think on this point, therefore,  
28 the main parties in interest before this Commission  
29 have been in agreement.

30 I would like now, My Lord, to





1 pass on to the first formal recommendation contained  
2 in the brief of the Shipping Federation. It reads:  
3 "On the executive side the creation of a permanent  
4 Board of Pilotage Commissioners as a non-political  
5 agency having under its enabling act jurisdiction  
6 over the administration of pilotage in the whole of  
7 Canada".

8 The important word there that  
9 I want to comment on at this stage, which I extract  
10 from this quotation, is the word "non-political".  
11 The reason, if I may say so, perhaps too bluntly --  
12 the reason I say why this word is used is that what  
13 we are seeking to avoid is, first, what I have already  
14 stated, I believe: Decisions based on political  
15 expediency in matters of pilotage administration;  
16 two, delays ensuing from a fear of taking decisions  
17 having a political repercussion or implication;  
18 thirdly, policy vacillations resulting in contra-  
19 dictory decisions commensurate with the varying  
20 degrees of pressure applied by the interested parties.

21 Unfortunately I will say that  
22 in our opinion there has been a long series of  
23 decisions taken in the past at the political level  
24 which were not based on the merits of the issues that  
25 had to be decided, but on the play of the factors  
26 which I have just mentioned, and the results obtained  
27 by the pilots on the one hand or the users of their  
28 services on the other hand, are measured by the  
29 varying degree of success obtained in, and if I may  
30 use this expression, placing the Minister in a difficult





1 situation or in a tight spot, if I may use this  
2 rather common expression.

3 We have an example of this  
4 in a recent occurrence which took place during the  
5 sittings of this Commission. This occurrence has  
6 to do with perhaps something that is minor in itself  
7 in the whole of the concept of pilotage, but it  
8 illustrates, I believe, better than anything else  
9 the statements which I have just made. I am referring  
10 in particular to the St. Lambert Lock affair.

11 I think it is interesting to  
12 go to a certain extent over the history of what I  
13 call this dispute, because it happened during the  
14 hearings of this Commission first of all, and it  
15 shows possibly even in an amusing light what can  
16 result from decisions taken by reason of various  
17 pressures exercised.

18 Our brief, Volume 1, at pages  
19 93 to 95 inclusive, gives a brief history of that  
20 dispute, and I do not intend to go over this here  
21 at this moment. At this time, when the brief was  
22 written, the final results had not been obtained,  
23 the decision had not yet crystallized, and I took the  
24 liberty -- I was told, using a crystal ball -- of  
25 saying what would happen eventually. Amusingly  
26 enough, we were proven to be right. What is inter-  
27 esting, and this is the point I want to develop here,  
28 what are the consequences of the policy or adminis-  
29 trative decision, rather, taken at that time and  
30 which has now crystallized insofar as the pilotage act







1 or the service itself is concerned?

2 I think I can illustrate this  
3 by referring to the last incident which involved  
4 a ship, the EVA THOLSTRUP, on November 19, 1964,  
5 and I refer Your Lordship to Exhibit 1420, where  
6 a copy of the pilotage cards are included amongst  
7 the list of various other documents.

8 The story is this: The EVA  
9 THOLSTRUP had to move in the Harbour of Montreal  
10 from Berth 101 -- a bunkering berth, I believe --  
11 to the Seaway. The time required for the pilotage  
12 act, and I am referring here to the act itself;  
13 that is, the moving of the ship from a berth to the  
14 Seaway, was an hour and a half. The tariff or due  
15 for this pilotage act under the by-law was \$32.00.  
16 The ship had to tie up at the wall in the Seaway  
17 because Lock No. 1 was not free. The cost or the  
18 due payable on this movement arising out of the  
19 decision of the Minister referred to in our brief  
20 is \$20.00. Therefore, \$52.00 is the cost of the  
21 pilotage act. However, the harbour pilot at the  
22 lock wall was detained on board for 20 hours because  
23 the lock was not free, and under the new policy he  
24 was entitled to \$5.00 an hour detention. Therefore  
25 the billing shows a charge of \$100.00 for that  
26 detention.

27 The Seaway pilot who was at  
28 the lock a few feet further up had to wait for the  
29 ship to come in the lock, and if you look at the  
30 billing of the Cornwall District you will see a





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1 detention charge of \$50.00 for the Montreal-Cornwall  
2 pilot waiting at Lock No. 1 a few feet from the  
3 pilot waiting on the ship. We say, first of all,  
4 that is not a business way of running pilotage.  
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1 The total cost, actually, if you include the Seaway  
2 pilot's attendance for the movage, or the pilot act  
3 of an hour and a half, was \$202. But what are the  
4 other tactical effects of this method of administration?  
5 The workload of the pilot on board a ship when it comes  
6 through the IBM machine which my learned friend wants to  
7 throw out of the window of the Department of Transport  
8 will show that that week -- that day -- the pilot, in  
9 addition to the hour and a half he spent performing  
10 the pilotage act -- will show that that pilot worked  
11 twenty more hours on that ship while he was waiting for  
12 lock No. 1 to be free.

13 I am not too clear, from my recollection  
14 of the statistical documents, whether the workload of  
15 the Seaway pilots will also be increased, but that is  
16 a possibility, or at least, if we accept the pilot's  
17 waiting time as working time, his workload will also be  
18 increased. Has the work been affected in any way,  
19 shape, or form? I submit No; and I think this example  
20 fully illustrates the I would say more than amusing  
21 but rather disastrous results of a policy adopted, or  
22 a decision taken, following pressure by one side on the  
23 other.

24 My Lord, I want to pass on now to the  
25 constitution of the Board of Pilotage Commissioners for  
26 Canada, which we recommend, or, at least, which we  
27 suggest not as a formal recommendation but to indicate  
28 in what directions our thoughts are moving.

29 Purposely at the time of the presentation  
30 of our brief we left this topic out of our discussions







1 or recommendations because we wanted to hear the  
2 evidence that was to be given before the Commission,  
3 see how things were going and because we ourselves were  
4 not completely convinced that our recommendation was  
5 probably the best, so we wanted to have further time  
6 to give to this particular subject.

7 I repeat that what I am going to say here  
8 is not a formal recommendation but simply a suggestion.  
9 We foresee that the Board of Pilotage Commissioners for  
10 Canada could be made up of three permanent members.  
11 As chairmain we would like to see a shipping man of  
12 experience, or a man of experience in the field of  
13 transportation. Of the other two members, one could  
14 be a man with legal training and the other a chartered  
15 accountant.

16 In addition to these three permanent  
17 members we would like to see an advisory committee --  
18 not a permanent one, but one on which the Board could  
19 call for discussion of broad policy decisions, or to  
20 formulate such broad policy -- an advisory committee  
21 composed of five members, one of whom could be --  
22 and this, again, is only suggestion, not a formal  
23 recommendation -- a representative of the Department of  
24 Trade and Commerce. I have already stated the  
25 importance of Canada's international trade in moving  
26 by sea, and that is the reason why we feel that a  
27 representative of Trade and Commerce could very well  
28 fit into the scheme and the advisory or consultative  
29 committee which we contemplate.

30 There could be a representative of the





1 St. Lawrence Seaway Authority. I appreciate that  
2 this consultative body would develop or elaborate  
3 policies for application all across Canada, and that  
4 the St. Lawrence Seaway Authority is not interested in  
5 the west coast ports, for instance; however, their  
6 interest in this very essential trade route which I  
7 have talked about earlier I think warrants their being  
8 made a party to this particular advisory committee.

9 It comes to my mind that if policy has  
10 to be formulated that will affect particularly trade  
11 from or to the west coast, then some other  
12 representatives of interested industry or government  
13 bodies could replace the Seaway Authority in such cases.

14 There should be a representative of the  
15 National Harbours Board -- one of their officers, or  
16 a delegate. The National Harbours Board has jurisdiction  
17 over what I would call the main ports in Canada on  
18 both sides of the country and, of course, in the St.  
19 Lawrence itself.

20 Then, a representative of the Department  
21 of Transport, marine services, with the duty and the  
22 function of maintaining channels and the ports and so  
23 forth--- services. As the fifth member we have in  
24 mind a representative of the Treasury Board. However,  
25 in this respect I must say that this is a question I  
26 have not sufficiently studied, and I beg the Commission's  
27 indulgence in that regard; but I want to say that we  
28 see considerable merit in the recommendation of the  
29 Canadian Shipowners Association which is to be found  
30 at page 7 paragraph 14 of brief No. 55, where they





1 recommend that the central Board be a Schedule "D"  
2 corporation as defined in Part VIII of the Financial  
3 Administration Act, responsible to the appropriate  
4 Minister of the Crown, reporting annually to Parliament,  
5 with review by the Auditor-General.

6 It may be that this is the question, I  
7 say very humbly, I have not studied enough. It is  
8 possible that the Treasury Board, in advance of the  
9 structure already created under the Financial  
10 Administration Act -- it is possible, I say, that the  
11 Treasury Board would already have had enough to say  
12 in the implementation of the provisions of the Act  
13 not to justify the presence of a member of the Board  
14 on this consultative committee.

15 What is interesting, though, is that under  
16 the Financial Administration Act the whole machinery  
17 is created, and Your Lordship and you gentlemen  
18 probably know of these corporations like those on the  
19 Schedule "D" such as the Canadian Broadcasting Corporation  
20 and the Central Mortgage and Housing Corporation --  
21 these corporations are quite independent from government  
22 even although they have to present to the appropriate  
23 minister estimates and budgets and make their report.  
24 But I believe it is correct for me to state that they  
25 are as free as they can be from political influence,  
26 at least in matters of every day decision and policy-  
27 making, although, of course, they might, in matters  
28 of very broad policy, be the subject of Parliamentary  
29 review or discussion.

30 But if it is a question of whether the







1 pilot's expenses in one district are going to be  
2 increased -- the allowances for pilots in one district  
3 are going to be increased from a dollar to two dollars,  
4 or some minor point of that kind, certainly this will  
5 not be a problem ending up in Parliament as we have  
6 some of these problems in the lap of the Minister  
7 at the moment.

8 My Lord, I am now going to pass on to the  
9 powers of the Board and perhaps this would be a good  
10 time to adjourn.

11 THE CHAIRMAN: Then, we will have a  
12 recess.

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16 --- Recess  
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1 ---UPON RESUMING

2 MR. BRISSET: My Lord, and  
3 Gentlemen, there is perhaps one other remark which  
4 I should make on the topic of the Constitution of  
5 the Central Board of Pilotage Commissioners. This  
6 is perhaps a self-evident truth, but the quality of  
7 the men which you select is, of course, of extreme  
8 importance as in many large corporate organizations,  
9 to head that enterprise. And of course, this truth  
10 is also applicable in the case of the Board which  
11 we advocate.

12 These men, these appointees,  
13 will have to be men of proven ability. As to their  
14 powers, I would like to ask the Commission to bring  
15 before it one Exhibit, namely Exhibit 945, as I do  
16 not propose to read at all times the full text. We  
17 have given to this Commission, under the guise of  
18 an Exhibit, our idea of what the powers of the Board  
19 should be. These are the powers which we want to  
20 deal with at this stage.

21 The first one is that of  
22 establishing new Pilotage Districts, abolishing old  
23 ones, or existing ones rather, and rearranging them  
24 as may be considered necessary, defining their limits  
25 and appointing the local Pilotage Authority that will  
26 handle the administration of each of these Districts.

27 The method of creating or  
28 abolishing Pilotage Districts by legislation is, I  
29 believe, as recommended by the Federation of St.  
30 Lawrence Pilots, in our humble opinion, not in keeping





1 with modern times and modern business practices.

2                   Although comparisons are  
3 always odious, I believe that nobody will countenance  
4 the thought that, for instance, in the car industry  
5 if a manufacturer wanted to change his styling or  
6 his model of cars he would have to go through as  
7 cumbersome a process as the legislative process.  
8 Experience has proven that the legislative process  
9 is a slow one.

10                   I direct my remarks here to  
11 the Districts of Quebec and Montreal which were  
12 created by legislative provisions and that has  
13 resulted in what I consider to be anomalies. For  
14 instance, in the Quebec District it was considered  
15 some years ago that the transfer for the pilotage  
16 station had to be moved upstream for the efficiency  
17 of these services and it was, in fact, moved to  
18 Les Escoumains. Still we have in our Canada Shipping  
19 Act the definition of the limits of the District  
20 that go back years and years ago to what they were  
21 and no longer are.

22                   We have had during the last  
23 few years the creation of the Harbour of Montreal  
24 District. I call it "District" advisedly because it  
25 is to all intents operated as such. You have a body  
26 of pilots that are more or less autonomous that serve  
27 a particular purpose and I am not too sure in my  
28 own mind that the legislative restriction of limits  
29 of the old Montreal District includes the whole area  
30 of operation of these pilots; particularly since the







1 opening of the Seaway.

2 You will recall until this  
3 famous St. Lambert dispute and still now when the  
4 lock is free, the harbour pilots do take vessels  
5 into Lock No. 1 of the Seaway Canal.

6 We have also here in the  
7 Montreal Harbour area two sets of pilots operating  
8 and it has come to my attention that this is not  
9 always satisfactory. I have been advised that  
10 the harbour pilots, for instance, have developed  
11 certain practices in the performance of their  
12 pilotage act, and that the river pilots do not always  
13 follow or accept this practice, and this is a  
14 state of affairs which can be perhaps related to a  
15 certain extent to the fact that the Montreal District  
16 limits have been defined by legislation and not by  
17 executive action.

18 In other words, to put this  
19 recommendation in more simple words, we say that  
20 the establishment of Districts or the abolishing of  
21 them is an executive act and should not be a legis-  
22 lative one.

23 The advisability of creating  
24 Pilotage Districts for areas by regulation, that is  
25 by executive act rather than by legislation, was  
26 recognized when the Great Lakes pilotage legislation  
27 was passed both in the States and in Canada. Districts  
28 were created by regulations and not by the Pilotage  
29 Bill itself.

30 This power which we recommend





1 should be given to the Central Board were permitted  
2 to implement, without going through the legislative  
3 process, a number of recommendations which I have  
4 found in the various briefs submitted before this  
5 Commission. For instance, it would permit the  
6 merger of the New Westminster Pilotage District  
7 with the British Columbia District as recommended in  
8 the brief of the Pacific Coast Terminals Company  
9 Limited, brief No. 11, recommendation No. 4. It  
10 would permit, without recourse to the legislative  
11 process, the integration of the Newfoundland Pilotage  
12 Districts into the Canadian scheme as recommended  
13 by a number of Newfoundland interests. I refer in  
14 particular to the recommendation contained in brief  
15 No. 16 of the Board of Pilotage Commissioners for  
16 Humber Arms and the recommendation contained in  
17 brief No. 17 of Lewisport, Newfoundland, of St.  
18 John's Harbour and the Pilotage Commission in brief  
19 No. 18; of Cornerbrook in brief No. 19.

20 It would give complete freedom  
21 to the executive to reach a decision of whether  
22 pilotage should be left to private enterprise in  
23 some of the Lower St. Lawrence and Gulf ports as  
24 recommended by the Lower St. Lawrence and Gulf  
25 Port Association in brief No. B33.

26 I shudder at the thought that  
27 this would have to be discussed in Parliament as to  
28 whether some of these reports remain private from the  
29 point of view of pilotage services or not.

30 It would permit the executive to





1 implement if found justified, as we submit it is,  
2 the extension of the Montreal Harbour pilotage area  
3 to Sorel, or at least to make the Harbour Pilotage  
4 District area in line with the area of the harbour  
5 itself as defined in the appropriate legislation.

6 I would like here to add one  
7 power to those I have just listed as this is closely  
8 related to it and it would be the power on the part  
9 of the executive to provide for compensation being  
10 paid to any pilots for any loss or damage which may  
11 be incurred by them in consequence of any abolition  
12 or rearranging of any Pilotage District or of  
13 assigning surplus pilots in one District to another  
14 that may be short of material.

15 This provision, I will confess,  
16 I have found in the United Kingdom Pilotage Act  
17 of 1913, Section 7, Sub-section 1-L, except that  
18 the UK legislation does not go as far as to state  
19 in that very article the power of assigning surplus  
20 pilots in one District to another.

21 However, there is one problem  
22 which I think in this connection has been aired  
23 before this Commission, and that is a surplus of  
24 pilots in Sydney, for instance, where there are  
25 perhaps shortages in some of the other Maritime  
26 ports.

27 The executive should have the  
28 power to reassign a pilot, or more than one pilot  
29 if there is a surplus, from one port to another,  
30 for instance. This is a business proposition I am







1 submitting here. If the pilotage is to be  
2 administered on a business basis, these powers  
3 should be given to the authority.

4 I am not at all impressed by  
5 the argument which I think has been developed before  
6 the Commission that if the traffic for one reason  
7 or another decreases in one particular area, the  
8 pilots who are serving that District are still  
9 entitled to be maintained in their position whether  
10 it be by subsidy or by increasing the dues charged  
11 on other ships.

12 The pilots have claimed, and  
13 I am not going to dispute it here, that they are  
14 professionals, but if we look at industry you find  
15 a manufacturer, for instance, that has a surplus  
16 of employees because business is not as good as  
17 it should be, of course the employer will dispense  
18 with the services of his surplus staff.

19 In the professional field  
20 you have this same phenomena. If I am a doctor or  
21 a lawyer in some small town, and for one reason or  
22 another the town activities or the industrial  
23 capacities diminish and plants are closing and I  
24 have not enough business to do to earn a living, I  
25 am sure -- and I say this in a general way -- either  
26 as a doctor or a lawyer I will never claim that the  
27 community owes me a living. I will move and find  
28 better opportunities elsewhere and I think this  
29 applies to pilots.  
30





1                               The next executive powers put  
2     in the board to which I want to refer is that of  
3     determining whether the payment of dues in any one  
4     District shall be compulsory, either in any one  
5     District or in any part thereof, and for what class  
6     of ship.

7                               The granting of exemptions  
8     or determining under what circumstances exemptions  
9     should be granted -- here again we submit that this  
10    is a matter of policy, broad policy which should  
11    not be made rigid as it would be if it were set by  
12    legislation. Argument has been advanced that in  
13    order to ensure the required services in any one  
14    District, the pilots should be assured of a  
15    definite revenue; hence the necessity of either  
16    making pilotage compulsory or payment of dues  
17    compulsory, and that if you do not have that, for  
18    instance, you will see this phenomenon that some  
19    ships will not use pilots if the weather is good  
20    and conditions are such that the officers feel they  
21    can proceed without resorting to the services of a  
22    pilot of the District.

23                              However, that, I submit, is  
24    not the point. What I want to say is that circum-  
25    stances vary in each District and the problem should  
26    be left to the appreciation of the local Authority  
27    whose decision in this regard will be ratified if  
28    justified by the Central Board. We feel that whether  
29    or not pilotage should be compulsory or the dues  
30    should be made obligatory, or payment of dues should





1 be made obligatory, is a decision, I repeat, which  
2 should be governed by the circumstances of the case  
3 and by, for instance, the following factors: First,  
4 the extent of the traffic control which is thought  
5 to be exercised; second, the need, if demonstrated,  
6 of speeding up the flow of traffic and avoid  
7 congestion; third, the difficulties of navigation  
8 to be encountered in the particular area in which  
9 the problem may arise.

10 It is not possible to  
11 formulate a rule of general application. I say  
12 this particularly if the pilots are to be remuner-  
13 ated on the basis of a formula like the one I am  
14 going to develop before this Commission at a later  
15 stage, because then you remove the degree of  
16 insecurity which otherwise would be a source of  
17 complaint. But while I am on the topic of  
18 compulsory pilotage there is one comment that I  
19 would like to make, and it is that I find a  
20 contradiction in the theory or philosophical  
21 concept developed before this Commission by the  
22 representative of the pilots.

23 Actually, in order to under-  
24 stand the point I am making, the Commission would  
25 have to appreciate that there are in fact three  
26 systems of compulsion that one can envisage. The  
27 first one is compulsory pilotage in the sense that  
28 the pilot must take charge of the navigation of the  
29 vessel; the second is compulsory pilotage in the  
30 sense that the pilot is or must be on board, but







1 presumably as an advisor to the Captain or Master;  
2 thirdly, the system of compulsory pilotage dues.

3 With regard to the latter, the  
4 Federation of St. Lawrence Pilots, in their brief,  
5 expressed the view that this system is a hypocritical  
6 one. I use this expression because I found it in  
7 the brief although it was not repeated here, but  
8 what difference does it make whether a ship going  
9 through a Pilotage District has to pay the dues  
10 if he does not take a pilot and the case where the  
11 ship has to take a pilot but where the pilot is  
12 only advisor to the Captain and the Captain can  
13 very well tell him, in the exercise of his  
14 authority, "Pilot, I will navigate my ship and you  
15 can go down below and come up when I have arrived  
16 at destination." I see no difference between the  
17 two systems from a philosophical point of view, and  
18 I want to remind this Commission that the pilots  
19 have advocated the system of compulsory pilotage  
20 with the pilot being only the advisor to the Captain.

21 In fact, when the law was  
22 passed here in Canada making pilotage dues obligatory,  
23 the payment of pilotage dues compulsory, I think I  
24 can say, looking at it from a practical point of view,  
25 that the legislators assumed that ship owners and  
26 their Masters would be endowed with some common sense.  
27 In other words, that if the payment of dues were  
28 compulsory they would use the pilots, and in fact  
29 that is what is happening in practice. Few and far  
30 between, I would say, over the years that the system





1 is in force are the cases where -- at least, speaking  
2 of ocean vessels; I will not speak of others --  
3 few and far between are the cases where the ocean  
4 vessel has not used a pilot that was made available  
5 to him and whose services he had to pay for. I  
6 think, in fact, there is not too much of a problem  
7 here. The question is not whether pilotage should  
8 be compulsory or the payment of dues compulsory,  
9 but whether, whatever system you adopt, you put in  
10 the system safeguards.

11 In other words, the system  
12 must have built-in safeguards insofar as the users  
13 of the services are concerned, and these safeguards  
14 are exemptions, automatic exemptions, if there is  
15 no pilot available, or whatever might be the reason,  
16 and this is what the system is today. If there is  
17 no pilot available the payment of dues is not  
18 compulsory, and I do not think, and I submit this  
19 to this Commission, that even if pilotage were to  
20 be made compulsory in any particular District the  
21 de facto situation would be changed in any way.

22 I remind Your Lordship and  
23 you gentlemen that I think this is well understood  
24 under the French system where, for reasons that I do  
25 not know, it was finally decided by legislation, I  
26 believe, to make pilotage compulsory. At the same  
27 time it was decreed that the liability for the  
28 payment of the dues would be the only penalty that  
29 would be imposed on the ship not using the pilot. In  
30 other words, we are back with a system which in







1 practice is the same as the compulsory payment of  
2 the dues.

3 The important point which  
4 I want to stress again is that whatever system  
5 you adopt there should be this built-in safeguard  
6 so that if compulsion exists it not be used as a  
7 means of asserting economic demands that are not  
8 warranted, and that even if these demands are or  
9 might be warranted, the compulsory nature should  
10 not be used to put them forward. This would be,  
11 I submit, an abuse of the bargaining powers which  
12 the pilots would have in their relations with  
13 either the Authority or the users of their services.

14 That decision as to whether  
15 the payment of dues should be compulsory should  
16 be left, I think, to the executive and it would  
17 permit the central authority to deal with the  
18 following recommendation which I have found in  
19 perusing some of the briefs submitted to this  
20 Commission. I refer in particular to the brief of  
21 the Vancouver Chamber of Shipping, brief No. 3,  
22 recommendations Nos. 5 and 6. Recommendation No. 5  
23 is to the effect that where the Master of a vessel  
24 is prepared to take a ship to an outport destination  
25 and there is a properly manned pilot station in the  
26 area, the ship should not be required to pay compul-  
27 sory fees unless the services of a pilot are used.

28 No. 6 has to deal with regular  
29 traders. I do not propose to read the recommendation,  
30 but this is a problem which the Central Board could







1 deal with under advice from the local Pilotage  
2 Authority. It would enable the Central Board,  
3 amongst others, to deal with the recommendation of  
4 the Canadian National Railways, contained in brief  
5 No. 26, paragraph 1; with that of the Halifax  
6 Pilot, contained in brief No. 24; with that, of  
7 course, of the Dominion Marine Association about  
8 which you will hear, I am sure, more later.

9 My Lord, the next power in  
10 the hands of the executive is that of approving the  
11 by-laws of the local Pilotage Authority. The local  
12 Pilotage Authority, I repeat, will or should run  
13 the administration of pilotage on a business basis,  
14 and the safeguard built in here is that this  
15 administration will be under the supervision of the  
16 Central Authority by means of the approval by the  
17 Central Authority of the local by-laws.

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1                   The Central authority will also have a  
2 word to say in determining the minimum-maximum  
3 remuneration of the pilots in each district in relation  
4 to their workload, if the formula which I will develop  
5 later in our address is found acceptable -- and I will  
6 not go over this at this stage except to point out that  
7 they will also have to take care of deficiencies or  
8 surpluses in the pilotage revenues under the tariff  
9 in each district; but I will explain later how this  
10 should be taken care of.

11                   Also within the ambit of the powers of  
12 the executive will be that of determining what part  
13 of the cost of service in each district shall be borne  
14 by the user of the service and what part should be paid  
15 by the government as a public service.

16                   This is a matter of broad policy which  
17 should be in the hands of the executive authority.

18                   It seems to us that in many cases it is  
19 to the interest of either a particular port, or a  
20 particular pilotage area, that either the whole or  
21 part of the cost of administration of the service  
22 is borne by the public in general -- that is, by the  
23 government -- particularly if Canada's international  
24 trade position is at stake.

25                   Looking at it the other way, the Commission  
26 does realise that the cost, for instance, of  
27 maintaining the St. Lawrence River channel -- this  
28 trade route I have spoken of -- and of maintaining  
29 the services relating to aids to navigation, have been  
30





1 borne by the government itself, and that such cost has  
2 not been charged to the users of those services.  
3 If, from one district to another, the costs of these  
4 services were charged to the users there certainly would  
5 arrive a point of no return.

6 This is a question of appreciation when  
7 we come to pilotage services. It is known at the  
8 moment that some of the costs of administration, like  
9 furnishing pilot boats, are to a certain extent charged  
10 to the users, but, as I have explained, traffic patterns  
11 change and this is a matter which should be reviewed from  
12 time to time as the situation changes. Therefore,  
13 here, again, we should not have a rigid principle  
14 set by legislation, which would require the legislative  
15 process to be invoked in order to change it. This  
16 has been recognized in the brief, for instance, of the  
17 Canadian Shipowners Association, and I refer to brief  
18 55, paragraph 12 at page 6; and by the Halifax pilots  
19 themselves, and I refer to brief No. 24, recommendation  
20 No. 3(c).

21 I refer also to the brief of the Canadian  
22 National Railways, brief No. 26, recommendation No. 6.  
23 Of course, in all cases where funds for the admin-  
24 istration of the services would be not charged to the  
25 users the central board would have to obtain from  
26 Parliament through appropriation the required amount  
27 of money which would then be passed on to the local  
28 pilotage authority for their use in connection with  
29 these services.

30 I have Exhibit 945 under which, in







1 paragraphs (i) to (o) indicated a number of powers  
2 which should be left to the executive, and as I have  
3 no other comment than those already made before this  
4 Commission by the various witnesses I propose not to  
5 deal with them in any detail. However, I have one  
6 remark to make, and it is this, in relation to sub-  
7 paragraphs (1) and (m) of these exhibits.

8 In paragraph (1) we state that the  
9 central board of commissioners would have the power  
10 to approve and supervise the operation of the pooling  
11 agreements of the pilots in each pilotage district.  
12 This, of course, is in the event that these pooling  
13 agreements are to remain. If they are to remain --  
14 and we will come to this later in our address -- we  
15 will recommend to the Commission that these pooling  
16 agreements be administered by the local pilotage  
17 authority; in other words, the collection and dis-  
18 tribution of the dues being pooled for the benefit of  
19 the pilots should be left to the local pilotage  
20 committee or authority as, I think, is done in British  
21 Columbia.

22 In sub-paragraph (m) we say that the  
23 central pilotage authority will have the power to cause  
24 an annual audit to be made of the books of the pilots'  
25 corporations or associations in each district.  
26 That is also intended to cover the case where, contrary  
27 to what we advocate, the administration and dis-  
28 tribution of pool funds are to remain in the hands of  
29 the various pilotage corporations in the districts.

30 Now, My Lord, I want to pass on to the





1 constitution and powers of the local pilotage authorities.  
2 It is advocated, on this topic, that as members of this  
3 Committee there be included representatives of the bodies  
4 who are interested in the development of the traffic  
5 within the pilotage area concerned, as well as in the  
6 safety of navigation in these waters; and the local  
7 pilotage committees are intended to be subject, of  
8 course, to the executive in overall jurisdiction as  
9 the supervising body of the central board in all broad  
10 policy matters.

11 It has been stated that what we advocate  
12 here would lead to the same evil that is sought to be  
13 cured, namely, centralization of the administration  
14 in one body far away from the local problems.

15 Of course, nobody can forecast what the  
16 future holds, but it is our view that if the local  
17 pilotage authorities are given the power which we  
18 say they should be given this should not occur; and  
19 perhaps in reviewing the power of the local pilotage  
20 authority we might develop later on this particular  
21 point.

22 I might mention here that it is not the  
23 intention of the Shipping Federation of Canada to  
24 express any views on the organization of the local  
25 pilotage authorities in the west coast ports, but it is  
26 hoped that the general scheme suggested for the east  
27 coast ports and the St. Lawrence may appeal also to  
28 west coast interests, and that eventually a similar  
29 structure might be built there, so that the general  
30 structure of the administration system in Canada will





1 not vary to any important extent.

2 We will restrict ourselves to indicating  
3 what are our suggestions -- and again I use the word  
4 "suggestions" advisedly, as we do not intend to put  
5 forward formal recommendations -- with respect to the  
6 constitution of the local pilotage authorities for each  
7 of the areas of the St. Lawrence River and the principal  
8 ports on the east coast, or the eastern seaboard.

9 Let us take the district of Quebec first -- that is,  
10 Quebec-Escoumains, Saguaney River. We foresee the  
11 local pilotage authority as composed of, first, as  
12 chairman, the superintendent of pilots who should be a  
13 man of appropriate technical experience. Here again  
14 I repeat the self-evident truth which I expressed earlier,  
15 that the quality of the man chosen is extremely important;  
16 and we foresee that the chairman will be assisted by two  
17 advisory members. One of these members could be a  
18 representative, or a member, of the local harbour  
19 authority. I am referring, of course, to the harbour  
20 of Quebec. The second advisory member, the Quebec  
21 agent and marine agent of the Department of Transport.  
22 We see as the advisory member the representative of the  
23 local harbour authority because, of course, the local  
24 harbour authority is interested in the development of the  
25 traffic there.







1 I say the Quebec Marine Agent  
2 of the Department of Transport because he is the  
3 officer whose functions are related to the maintenance  
4 of the aids to navigation that are so important in  
5 the pilotage act performed by the pilots of the  
6 District.

7 In the Montreal River District  
8 -- and I describe here, anticipating, the Montreal  
9 River District as the body of water extending from  
10 Quebec to Sorel, leaving for later on the discussions  
11 of the limits of that District. Again, as Chairman,  
12 the Superintendent of Pilots with the same quali-  
13 fications I have indicated earlier and as advisory  
14 members the Chief Engineer or his delegate of the  
15 Ship Channel Branch and Sorel Marine Agent of the  
16 Department of Transport. This stretch of the  
17 river, I consider, is more of a transit stretch and  
18 we have to pay particular attention here to the  
19 qualifications of the advisory members of the local  
20 Pilotage Authority in view of the fact that their  
21 functions are related to the aids to navigation;  
22 the channel itself through which the pilotage act  
23 will be performed in that particular area.

24 The Federation has recommended  
25 or advocated the abolition of the division of the  
26 District as it now exists, namely at Three Rivers,  
27 and that in place of this division the Montreal-  
28 Quebec District be reorganized into one extending  
29 from Quebec to Sorel with a new District being created  
30 extending from Montreal of Sorel where the Montreal





1 harbour pilots will either relieve the river pilots  
2 on vessel inbound or be relieved by the river  
3 pilots on vessels outward bound.

4 I just mention this at this  
5 moment without wanting to go at this stage into  
6 the reasons for this recommendation. I pass on  
7 because I have created, if I may say so, a new  
8 District. I pass on to the Montreal Harbour District  
9 simply for the purpose of indicating its situation.  
10 We submit here that the local Pilotage Authority  
11 should be the local administration of the National  
12 Harbours Board. It has been said before this  
13 Commission that the National Harbours Board or one  
14 of the officers of the Board who appeared before  
15 this Commission did not recommend that this be so  
16 and that therefore our recommendation we are making  
17 ourselves is not supported by the party mainly  
18 interested in the recommendation we have made.

19 Well, all I can say in this  
20 regard is that I think the officers of the Board  
21 should be admired for the very diplomatic way in  
22 which they have approached the rather thorny  
23 questions, the difficult questions that were being  
24 put to them.

25 To say bluntly before this  
26 Commission that they wanted to take over pilotage  
27 in the Montreal District would have been to say  
28 they had no faith in the present administration or  
29 at least it could have been concluded from such a  
30 statement that such was their view and I do not think







1 that the National Harbours Board could ever be  
2 asked to make such a statement.

3 The fact remains that they  
4 have stated quite clearly that if the matter of  
5 the administration of the District was entrusted to  
6 them they would take it over and they felt  
7 confident that they could properly administer it  
8 and I have full confidence that they would certainly  
9 do so.

10 The extension of the Montreal  
11 Harbour Pilotage District to the Harbour of Sorel,  
12 I think, will resolve problems that exist at the  
13 moment. For instance, it will make the recent  
14 extensions of the limits of the harbour coincide  
15 with the pilotage area which is to be served. The  
16 Harbour Board, and I don't want to speak for the  
17 Board, I am speaking simply in argument here, I am  
18 sure is interested in the development of the harbour  
19 and, needless to say, the safety of traffic therein.  
20 There may exist possible conflicts at the moment  
21 between the National Harbours Board and the Pilotage  
22 Authority and whether they do or do not exist is not  
23 point. The situation is such that such conflicts  
24 may arise and the entrusting to the National Harbours  
25 Board the charge of administering the pilotage will  
26 resolve such conflicts whether they have existed or  
27 whether they will be existing or may arise in the  
28 future.

29 It should not be forgotten  
30 that the Board is given statutory powers to enact







1 by-laws and has enacted by-laws relating to the  
2 safety of navigation. For instance, in controlling  
3 the speed within the limits of the harbour,  
4 controlling the places where vessels should or  
5 should not anchor and generally in controlling  
6 the movement of the ships in the harbour. As we  
7 know ships have to obtain permission to move and  
8 so forth.

9 It seems to me anomalous that  
10 the instrument principally who has to -- or the  
11 individual rather -- who has to form all these  
12 regulations, because the pilot is, in fact, not  
13 only an advisor to the Master in these matters  
14 but having a good deal to do with the navigation  
15 of the ship in these restricted waters, it seems  
16 anomalous, I say, that he should be under an entirely  
17 different authority than the one who issues the  
18 regulations that shall govern the act which he  
19 will perform.

20 I pass on now to the next  
21 District going upriver -- Montreal-Cornwall District.  
22 It is suggested here that the St. Lawrence Seaway  
23 Authority, just as the National Harbours Board  
24 for the Harbour of Montreal, assume the full  
25 administration at the local level of all the pilotage  
26 services. I will not develop the reasons. They are  
27 in fact the same as what govern the administration of  
28 pilotage for the harbour authority within the limits  
29 of the harbour itself.

30 Again the St. Lawrence Seaway





1 Authority has not stated directly before this  
2 Commission that they would recommend taking over  
3 the administration of pilotage within the Seaway  
4 itself, but their position was the same, I submit,  
5 as that of the officers of the National Harbours  
6 Board.

7 I don't think -- although I  
8 haven't had a chance to review the evidence -- that  
9 they have said that they would not take it if they  
10 were asked to do it. I will not make the statement  
11 that they said they would, because frankly I don't  
12 recall at the moment.

13 THE CHAIRMAN: They changed positions.  
14 At the beginning they were not interested and then  
15 they changed.

16 MR. BRISSET: Yes. I remember there  
17 was a change of position between the two times  
18 they were called before this Commission -- once in  
19 Montreal and later on, I think, in Ottawa here.

20 Although again this is  
21 anticipating, I want to say a word about the Welland  
22 Canal here; anticipating because I remind the  
23 Commission that our recommendation is a division of  
24 the Lakes Basin into spheres of influence. For the  
25 Welland Canal we will also suggest that the St.  
26 Lawrence Seaway Authority be the local Pilotage  
27 Authority in full charge of the administration of  
28 the services in the Canal.

29 It seems to us in view of the  
30 experience of the shipping industry, especially during





1 the last two or three years, that this is the  
2 only logical way of solving the intolerable situation  
3 that exists at the moment from an operating  
4 point of view. I am speaking in the sense of  
5 pilotage, to solve, I say, an intolerable situation  
6 that exists at the moment. The Welland Canal has  
7 become a purely Canadian operation and I will refer  
8 to this later on in my address when I speak of the  
9 Great Lakes Basin.

10 We see no other alternative --  
11 and when I say that I am thinking at the moment of  
12 the delays that have occurred during the season of  
13 navigation of 1964 in the Canal due to pilot  
14 shortages. We have filed, I think as Exhibit 1421,  
15 the statistics that were available up to the end  
16 of August, 1964 and we have now obtained from the  
17 St. Lawrence Seaway Authority the statistics up to  
18 the end of the season of navigation and with the  
19 permission of this Commission I would like to add  
20 them to Exhibit 1421 already filed.

21 ---EXHIBIT NO. 1421: Additional statistics filed from  
22 (Addition) the St. Lawrence Seaway Authority.

23 In reviewing the statistics  
24 from September on I could not but be appalled at the  
25 number of delays that are ascribed to the unavail-  
26 ability of a pilot. True, in many cases, the causes  
27 given for delay appear to be dual. For instance,  
28 I find one, "wind and pilot"; another one, "weather  
29 and pilot"; "weather and pilot" -- but the delays  
30 are often extremely serious.







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Brisset

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1 They have varied from as many  
2 as 47 or 51 hours to at times only two hours, but  
3 in a great many cases the full day has been lost  
4 by a ship waiting for a pilot.

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1 I have noted remarks, for  
2 instance, reading this way: "No pilots available  
3 from 22 hours on October 24 on; no pilots available  
4 from 22 hours on October 11; no pilots available  
5 from October 17, 2335 hours until October 18, 7  
6 hours", and so forth.

7 As for the Maritimes ports of  
8 Saint John, New Brunswick, Halifax, St. John's,  
9 Newfoundland -- and in regard to the latter your  
10 Commission is aware that it has become a National  
11 Harbours Board port since January 1st -- we foresee  
12 that either the local National Harbours Board  
13 administration will take over the pilotage services  
14 at the local level, as in the Harbour of Montreal,  
15 or else local pilotage committees will be  
16 constituted as follows: A Chairman, Superintendent  
17 of Pilots with the same qualifications I have  
18 previously described; and as advisor members a  
19 member of the staff of the National Harbours Board  
20 and the local DOT agent.

21 As Your Lordship and you  
22 gentlemen will notice I am not giving a constitution  
23 of pilotage authority that intends to be the same  
24 everywhere. I foresee that in the Maritimes ports,  
25 because of local circumstances, it may not be  
26 advantageous or necessary for the National Harbours  
27 Board to take over the local administration. There  
28 remains the port of Sydney in regard to which I  
29 would like to, on behalf of the Federation, make the  
30 suggestion on the constitution of the committee,





1 reminding the Commission that Sydney is, to a  
2 certain extent, a private port in the sense that  
3 the main activity is that of Dominion Steel and  
4 Coal. We would recommend as constituting the  
5 committee the Port Manager or Harbour Master as  
6 Chairman, as advisor members, the senior agent  
7 of the Department of Transport and the representative  
8 designated by DOSCO, Dominion Steel and Coal.

9 I again want to stress what  
10 we stated at the time Exhibit 945 was discussed  
11 before this Commission and the evidence of Mr.  
12 Colley. Although the powers of the local committee  
13 are intended to be primarily administrative, we  
14 would want that they be fully exercised at the  
15 local level. Particularly, with respect to the  
16 complete and full enforcement of the by-law which  
17 will govern that District.

18 In other words, except in  
19 matters of broad policy coming within the executive  
20 power of the Central Board, we would not want the  
21 local authority to have to go to Ottawa every time  
22 a problem presents itself, and if the structure is  
23 built along the lines of the broad policy which we  
24 advocate, we feel sure that the Central Board would,  
25 in its directives to the local Pilotage Authority,  
26 make them understand that this is the policy that  
27 should be followed.

28 I do not intend to dwell at  
29 too great length on the powers of the local pilotage  
30 committees. They have been defined in Exhibit 945.







1 I would like to add a word in respect of some of  
2 these powers, and I refer particularly to the  
3 licensing of pilots and apprentices and the terms  
4 and conditions of such licences. I refer to this  
5 because I feel now the wording of this particular  
6 recommendation was not too happy. What we foresee --

7 THE CHAIRMAN: Do you have a lot  
8 more on this topic? Is it going to take only a  
9 few minutes or longer?

10 MR. BRISSET: It will take longer,  
11 My Lord.

12 THE CHAIRMAN: I think we will adjourn  
13 now until tomorrow morning at ten o'clock.

14  
15 --- Whereupon the hearing was adjourned until  
16 10:00 a.m., Saturday, the 9th day of January,  
17 1965.  
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# ROYAL COMMISSION

ON

## PILOTAGE

### HEARINGS

HELD AT  
OTTAWA  
Ontario

VOLUME No.:  
159

DATE:  
9 January, 1965

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ROYAL COMMISSION ON MARINE PILOTAGE

Proceedings of the hearing held  
within the Supreme Court Building,  
Wellington Street, Ottawa, Ontario,  
on Saturday, the 9th day of January,  
1965.

THE COMMISSION:

The Honourable Mr. Justice Bernier	--	Chairman
Mr. Robert K. Smith	--	Member
Mr. Harold A. Renwick	--	Member
Mr. Gilbert Nadeau	--	Secretary

COMMISSION COUNSEL:

Mr. Maurice Jacques

PRESENT:

Mr. J. Brisset, Q.C.	--	for the Shipping Federation of Canada
Mr. Marc Lalonde	--	for the Federation of St. Lawrence River Pilots; Corporation of the Lower St. Lawrence Pilots; Corporation of the Montreal Harbour Pilots; Corporation of the Mid-St. Lawrence Pilots; Corporation of the St. Lawrence River and Seaway Pilots; Corporation of the Upper St. Lawrence Pilots
Mr. R. Langlois	--	for the Canadian Merchant Service Guild
Mr. J. J. Mahoney	--	for the Dominion Marine Association
Mr. R. Macgillivray	--	for the Department of Transport







Ottawa,  
Saturday, January 9, 1965

--- On commencing at 10.00 a.m.

MR. BRISSETT: My Lord, Gentlemen, at the adjournment yesterday I was reviewing the powers and duties of the local pilotage authorities and I had pointed out that paragraph B on page 3 of Exhibit E-945 had not been happily worded. It was dealing with the licencing of pilots. What we foresee in districts other than those administered by the National Harbour Board, or the St. Lawrence Seaway Authority, which we feel would have the technical personnel required to discharge these functions without outside assistance -- we foresee first the formation of a consultative committee which would advise the local authority on how to govern the selection of apprentice pilots and the formulation of programmes of apprenticeship.

We also foresee the appointment of an examination board composed of the following members: The Chairman of the local pilotage authority, a representative of the central authority, representatives from the shipowners and the pilots, who would examine the candidates for the licence of pilot. The licence would eventually be issued by the central authority on the recommendation of the local authority to candidates who, of course, successfully passed the





1 examination.

2 One further matter which is not listed  
3 in this Exhibit is the collection of dues and the  
4 administration and distribution of the pooled funds  
5 of the pilots if that system is to remain in effect,  
6 or wherever it does remain in effect.

7 It is intended, as I have already indicated,  
8 that the superintendent of pilots in charge of the  
9 district will be the Chairman of the local pilotage  
10 authority when several committees or authorities  
11 constituted in the manner I have indicated as well,  
12 where the administration is in the hands of the  
13 National Harbours Board or the St. Lawrence Seaway  
14 Authority. This Chairman will be primarily  
15 responsible for the discharge of the material functions  
16 related to the efficient operation of the pilotage  
17 services in the district and will, of course, have  
18 power to appoint such staff as he may require for the  
19 purpose. It might even, in very large districts,  
20 mean that a sub-chairman or assistant superintendent  
21 might have to be appointed.

22 The local authority will have full control  
23 over the districts and will be charged with the full  
24 enforcement of the bylaws covering the district as  
25 approved by the Central Authority.

26 I repeat that it is the intention that there  
27 should be effective control at the local level and wide  
28 powers of administration; that the local authority  
29 should be given extensive powers is, I think, supported  
30 by a number of associations and bodies who have





1 appeared before this Commission and I only want to  
2 name a few: The Canadian Shipowners Association  
3 in brief No. B-55, page 17; I think I can say that the  
4 Federation of St. Lawrence Pilots has expressed similar  
5 views. Of course, the administration would be handed  
6 over with complete authority to the corporation of  
7 pilots. The Lake Superior Pilots have expressed  
8 the same view in brief No. 49, recommendation 3;  
9 the Vancouver Chamber of Shipping in brief No. 4,  
10 recommendation 3 where there is the appointment of a  
11 superintendent of pilots for British Columbia with  
12 local control. The B.C. pilots themselves, in  
13 brief No. 10, recommendation No. 6, have expressed  
14 themselves as follows:

15 "In the British Columbia Pilotage  
16 District a regional superintendent and his  
17 assistant should be respectively appointed  
18 as supervisor and assistant supervisor, and  
19 the supervisor should have the necessary  
20 authority to dispose of the local admin-  
21 istration problems in consultation with the  
22 local pilotage committee."  
23 Again the thought is expressed of control at the local  
24 level.

25 We see the same recommendations in the  
26 briefs that have come from Newfoundland. The  
27 Canadian Merchant Service Guild has expressed the  
28 position that the local port authorities become the local  
29 pilotage authority, but at the same time they have  
30 spoken of problems that, in my humble submission, are







1 not of the domain of the pilotage authority, like  
2 the under-keel clearance, aids to navigation, and it  
3 seems to me that, for instance, the problem of under-  
4 keel clearance would be a problem in the lap of the  
5 harbour authorities; and if they were also at the same  
6 time in control of the administration of pilotage the  
7 necessary machinery could, I think, be put in practice  
8 much more efficiently.

9 My Lord and Gentlemen, there are two  
10 remarks that I would like to make before concluding my  
11 review of the powers and constitution of both the  
12 central board of pilotage commissioners and the local  
13 pilotage authorities.

14 First, we do not recommend that the  
15 structure of the local administrative scheme in each  
16 district be the same both in its constitution and in  
17 the territorial sphere of its operations. This must  
18 be adapted to the needs and peculiarities of the  
19 services required.

20 We also foresee the possibility of one  
21 local authority having two areas of pilotage and that  
22 whether such areas be contiguous or not. I will  
23 give examples. For instance, we foresee the same  
24 local authority to administer the Quebec-Escoumains  
25 pilotage district as well as the Quebec Harbour  
26 pilotage district if one is created.

27 We are going even further than that.  
28 We foresee that one authority might administer the  
29 whole of the Quebec-Escoumains district and the Quebec  
30 Sorrel district, or areas of pilotage welded into one





1 district with one operational nerve centre say in  
2 Montreal and the despatching officers located at  
3 strategic points like Sorrel, Quebec, Les Escoumains,  
4 all linked by a teletype system; and I think this  
5 should be done if the central information centre  
6 advocated in the brief of Electronic Computing Devices  
7 is put into operation.

8 THE CHAIRMAN: In other words, the  
9 organizational structure should be as flexible as  
10 possible to adapt to the present situation and what  
11 could be the situation in the future with the appearance  
12 of new devices for communications and so on? That  
13 would be it?

14 MR. BRISSET: Yes, exactly, My Lord.  
15 This would then become the St. Lawrence River District  
16 with a division in Quebec. For instance, you could  
17 have a division in Three Rivers for the present Montreal  
18 Quebec District.

19 I think my learned friend, speaking for  
20 the pilots, has himself indicated that there would be  
21 a great saving in costs in having not too many districts.

22 We foresee, for instance, one district  
23 to encompass what is now the Montreal-Cornwall District  
24 and the Welland Canal under the same local authority,  
25 namely, the St. Lawrence Seaway Authority. In this  
26 case the two areas would not be contiguous but you could  
27 have the operational nerve centre in Cornwall with  
28 the despatching officers where required.

29 I realize that at the moment there is a  
30 problem in respect of the district between St. Regis





1 and Cape Vincent, and, frankly, we have not yet  
2 found a solution to that problem; and that is a  
3 possibility --and a strong possibility, I am advised --  
4 assuming that Canada builds her own seaway -- that is,  
5 her own locks on the Canadian side of Eisenhower and  
6 Snell, and then I would foresee one single district for  
7 the whole of the Canadian sphere of operations on the  
8 lakes -- on the Great Lakes Basin -- under the authority  
9 of the St. Lawrence Seaway Authority, namely, from  
10 Montreal to Port Colbourne at the upper end of the  
11 Welland Canal.

12 THE CHAIRMAN: I would say that we have an  
13 example of that. We spoke first of decentralization.  
14 Now we are speaking of centralization to a certain  
15 extent?

16 MR. BRISSET: At the local level.

17 THE CHAIRMAN: For example, in the  
18 situation between Montreal and Quebec, we have three  
19 groups of pilots in one district -- three different  
20 areas.

21 MR. BRISSET: Let us go back to the  
22 Lakes. There would be, again, one central operational  
23 nerve centre which I assume would be in Cornwall, just  
24 as it is for the operation of the whole of the Seaway,  
25 with despatching officers where required.

26 And when I say one central operational  
27 nerve centre, this is from where all billings would be  
28 issued, dues would be collected and distribution of  
29 the pooled earnings if the system is in force, or the  
30 remuneration of the pilots through a central office.







1                   While on this subject, even althouth this  
2 is anticipating, we foresee that in the same manner  
3 there would be only one single district for the American  
4 area of operations in the Great Lakes, covering the  
5 pilotage area from South East Shoal to Sarnia and to  
6 St. Mary's River, with one operational nerve centre  
7 and despatching offices where required.

8                   In this connection, My Lord, I might state  
9 that after preliminary study of the situation and of  
10 the economical aspect of the problem the Shipping  
11 Federation strongly believes that it is possible to  
12 have the pilot put on board ship or taken off a ship  
13 at South East Shoal.     Of course, as has happened so  
14 many times in the past, the Shipping Federation has been  
15 told from government authorities that this cannot be  
16 done, but we have demonstrated on a number of occasions  
17 that what could not be done could be done and was done  
18 eventually.

19                   If I may interject, perhaps, a lighter  
20 remark here, I might say that the Canadian Coastguard  
21 vessel now in use in the area of South East Shoal would  
22 make a beautiful pilot boat!

23                   If your Lordship would permit, and if this  
24 is not out of order, we would like to file at some  
25 stage the exchange of correspondence we have had with  
26 the Department in connection with the South East Shoal  
27 possible boat services.

28                   THE SECRETARY:   I will give you the number  
29 now, My Lord...

30                   THE CHAIRMAN:     Have you the latest one





1 there?

2  
3 THE SECRETARY: It will be No. 1433.

4 --- EXHIBIT No. 1433: Exchange of correspondence  
5 between the Shipping  
6 Federation of Canada and  
7 the Department in connection  
8 with possible South East  
9 Shoal boat services.

10 MR. BRISSET: This is for this year,  
11 1964 -- from October to December 1964.

12 I think your Lordship took the words out of  
13 my mouth. I was going to say that what we advocate,  
14 in effect, is the required flexibility in the  
15 administrative structure that will procure the most  
16 efficient and least costly service.

17 My second remark is this, that we have  
18 advocated that in certain areas the National Harbours  
19 Board and the St. Lawrence Seaway Authority be  
20 entrusted with the administration of the pilotage  
21 services as the local pilotage authority, but that they  
22 be still subject to the jurisdiction of the central  
23 Board in matters of broad policy; for instance, in the  
24 formulation of the pilotage tariffs which will set the  
25 dues payable by the users of the service, the  
26 determination of the method of remuneration of the  
27 pilots who will render the services, because we do not  
28 envisage that the pilots serving in these areas will  
29 be the employees -- salaried employees -- of these  
30 organizations.

Now, one might ask: How is it possible  
that a Crown corporation -- because the National Harbours





1 Board is a Crown corporation; in fact, it is classified  
2 as a corporation under the Financial Administration Act,  
3 and the same applies to the Seaway Authority -- how  
4 could they be under the jurisdiction of another Crown  
5 corporation which would be the Board of Pilotage  
6 Commissioners? Well, I will say that this is not  
7 a novel situation, and Mr. Smith may possibly recall  
8 this.







B/JC/rps 1 The National Harbours Board, for instance,  
1/9 2 does operate railroads on their property, and to fix  
3 the rates or railroad charges they have to obtain  
4 approval of the Board of Transport Commissioners. The  
5 National Harbours Board also operate on their own  
6 property the grain elevators. The charges for  
7 elevating grain into the ships are set by the Canadian  
8 Wheat Board. In order words, the National Harbours  
9 Board cannot charge what they want. They are under  
10 the directives of the Canadian Wheat Board in this  
11 regard.

12 COMMISSIONER SMITH: Only, as I recall  
13 it, in certain respects with regard to storage  
14 charges. I mean, there are a whole lot of other  
15 charges they can make with regard to their operation,  
16 but storage charges must be fixed by the Board of  
17 Grain Commissioners.

18 MR. BRISSET: I am advised that now  
19 all charges are subject to the control and directives  
20 of the Canadian Wheat Board.

21 COMMISSIONER SMITH: I stand corrected.

22 MR. BRISSET: This is a point, perhaps,  
23 that should be checked. I had occasion yesterday to  
24 speak to Captain Oppen who is here. I asked him  
25 this question, and he told me that elevating charges  
26 were set by the Canadian Wheat Board, but, in fact,  
27 at the moment, in respect of certain elevators, they  
28 considered the charges were too low. They were  
29 losing money, but they have not at yet succeeding  
30 in obtaining permission to raise the charges.





1 COMMISSIONER SMITH: You mentioned the  
2 "Canadian Wheat Board." That is the marketing end  
3 of the operation. The Board of Grain Commissioners,  
4 I think, fixes the rates.

5 MR. BRISSET: I am sorry, yes. There  
6 may be two wheat boards.

7 COMMISSIONER SMITH: One is the marketing  
8 agency, and the other controls rates.

9 MR. BRISSET: That is so. There are  
10 two controlling authorities, then.

11 COMMISSIONER SMITH: The Board of  
12 Grain Commissioners fixes the rates.

13 MR. BRISSET: One in respect of storage  
14 charges, and the other in respect of elevating charges  
15 which is to take the grain into the ships, or dis-  
16 charge grain from the ships.

17 My lord, I now want to pass on to  
18 Recommendations Nos. 3 and 4 which deal with the  
19 development of a formula designed to provide a pre-  
20 set annual remuneration for pilots, geared to their  
21 workload, and with, perhaps, certain limits or minimums  
22 -- maximums; and the adoption of a system under which  
23 pilotage rates or tariffs shall be negotiated between  
24 the Authority and the user of the service to provide  
25 the required revenues to meet the cost of the  
26 pilotage services, to the extent that they have to  
27 be met by the users and the main item will, of course,  
28 be the remuneration of pilots.

29 This again is a self-evident truth,  
30 and we have made this statement so many times that





1 perhaps it is redundant to make it again, but we  
2 do acknowledge that pilots render an essential service  
3 to shipping for which they should be well remunerated.

4 I can assure the Commission that the  
5 proposal we are making has not, as its objective,  
6 the enslavement of pilots; if I may use an expression  
7 that has been used before. The objects that we seek  
8 to obtain are the following - and the illustration  
9 which I will give later may, perhaps, permit you  
10 to understand more clearly what these objectives  
11 are.

12 First of all, it is to provide them a  
13 fair return for the pilotage acts actually performed.  
14 We think that it is a fallacy to pretend that if a  
15 pilot is performing 30 hours of pilotage in a week,  
16 and spending 20 hours travelling from home to ship  
17 and vice versa; or waiting at the pilotage station,  
18 or resting across Lake Erie in District No. 2, he  
19 should be remunerated on the basis of a workload of  
20 50 hours for that week, just the same as if he had  
21 performed 50 hours of pilotage work.

22 There is a distinction to be made,  
23 therefore, in order to consider the value of the  
24 services rendered.

25 Secondly, the other objective is to  
26 provide them with security by way of a dual or double  
27 guarantee. First of all to assure a level of earnings  
28 for a pre-set workload attained even if the tariff  
29 does not, because of variable conditions, bring in  
30 enough revenues to meet that level of remuneration.







1                   The other guarantee is that of a minimum  
2 remuneration if, because of unforeseen conditions,  
3 the pre-set workload is not achieved for reasons that  
4 are other than the non-availability of the pilot,  
5 of course.

6                   Now, these are objectives with respect  
7 to the pilots. With respect to the users of the  
8 services, the objectives sought to be attained are  
9 these: first, the assurance that the pilots will not  
10 profit from the unpredictable results of the tariff  
11 structure then in force, and when rendering a service  
12 which will justify such extra profit. In other words,  
13 we foresee that if this develops then we will have  
14 reasonable evidence for revising the tariff downwards,  
15 something that has never happened before in this  
16 country.

17                   THE CHAIRMAN: British Columbia, once.

18                   MR. BRISSET: Good for them. I am  
19 sure it has never happened elsewhere. In this  
20 regard we would be breaking new ground, my lord.

21                   Secondly, to avoid the interminable  
22 negotiations and strained relations that have resulted  
23 in the past from constant demands for revisions  
24 of tariff items, or whole structures of tariffs; with  
25 the hope that, eventually, there can be established  
26 a tariff structure that will be much more simple  
27 than the one we have today.

28                   My lord and gentlemen: there are  
29 many possible modalities of formulae that can be  
30 developed, but I would like to try to give a very





1 simple illustration and show to you that the method  
2 I have followed is easy to apprehend, if you compare  
3 it to the method followed by the pilots themselves  
4 in the districts with their pooled funds.

5 The formula I want to explain is one  
6 based on the number of trips which you might call the  
7 number of turns, if one wishes. The formula, I realize,  
8 can be developed in certain districts on the basis  
9 of time available, or a combination of both, and  
10 eventually in developing a formula in any one district,  
11 actuarial methods would have to be followed.

12 The example I will give is a simple  
13 one just to illustrate, of course, and not on the  
14 basis of any actuarial work.

15 Let us assume, on the basis of the  
16 previous year of operation and the forecast for the  
17 coming year, the traffic in one district will require  
18 that each pilot in the district will make one hundred  
19 trips, which is agreed as being a fair workload for  
20 the year or a season; taking into account, I add,  
21 the number of cancellations and detentions that  
22 normally occur.

23 For instance, it should be easy to  
24 develop a formula to the effect that if there are  
25 one hundred trips by a pilot in one season; detentions  
26 and cancellations equal "X"; say any figure, and  
27 then if he does only 50 trips, detentions and cancel-  
28 lations equal "X" divided by two.

29 The target income is then agreed at  
30 the sum of "X" for every pilot performing one hundred





1 trips, or being granted one hundred turns during the  
2 season. Therefore, every pilot performing that  
3 one hundred trips or being credited with one hundred  
4 turns will receive "X", the pre-set remuneration.

5 If he does 90 trips, or is credited with  
6 90 turns, he will get "X" divided by one hundred  
7 multiplied by 90 -- nine-tenths. If he does 110  
8 trips he will get divided by 100, multiplied by 110.

9 Now, one hundred and ten trips might  
B2 10 be agreed as being the maximum workload for that  
11 season. Now, whether the tariff eventually produces  
12 dues that do not permit the payment of this  
13 remuneration to pilots having done their 100 trips,  
14 or having been credited with 100 turns, then the  
15 pilot will still get "X", the pre-set remuneration.

16 If the tariff produces more than  
17 what is required to pay his remuneration, the excess  
18 will then go into a trust fund to take care of  
19 deficiencies in future years; so if the excess fund  
20 builds up too rapidly, it will provide a cushion,  
21 or at least provide a reason to reduce the tariff  
22 in a subsequent year in order to bringdown the excess  
23 accumulated.

24 However, there will always remain in  
25 the fund a certain amount to be agreed or determined  
26 by the Authority to take care of deficiencies in  
27 years which I will call "lean years," or a "lean year,"  
28 where the revenues will go even below the minimum  
29 guarantee.

30 For instance, if 90 trips is used as a







1 minimum guarantee, the pilot who has only 80 trips  
2 will be paid on the basis of 90 trips out of the  
3 excess funds in the hands of the Authority.

4 Now, you will realize that there is  
5 an incentive built in this formula, in the sense that  
6 there is a range in the number of turns. In other  
7 words, it is foreseeing that the pilot might do 90  
8 turns or trips as a minimum, but 110 as a maximum.  
9 If he does more than the minimum he gets more  
10 remuneration and that is where the incentive lies,  
11 but then, on the other hand, to get more pay he has  
12 to provide more work.

13 THE CHAIRMAN: One criticism you may  
14 receive on that is the possibility that, as has been  
15 pointed out somewhere, the pilots will say: "We are  
16 not guaranteed a minimum remuneration with you in  
17 that, for instance, let us say for six months there  
18 is a strike, so we would have no trips and therefore  
19 no remuneration."

20 MR. BRISSET: I have made a qualific-  
21 ation on this: pilots would have to be available.  
22 Let us assume that there is a strike, and I will  
23 presume that your lordship has reference to the strike  
24 of longshoremen, for instance, which has nothing to  
25 do with the pilots.

26 THE CHAIRMAN: That is right.

27 MR. BRISSET: A situation of this  
28 kind would produce what I refer to as a "lean year,"  
29 where the funds accumulated in previous normal years  
30 would build up. The reserves might have to be used.





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1 Now, we are going to be asked: "How  
2 can you guarantee that the maximum workload set will  
3 not be exceeded?" The remedy, of course, is to add  
4 pilots to the roster during the season if it is  
5 realized that the traffic is considerably more than  
6 forecasted. They could be added either on a temporary  
7 or a permanent basis. The addition of temporary  
8 pilots in districts, I think, is something which has  
9 been done in the past under certain circumstances.





1 MR. BRISSET: Yes, I repeat that the shipping industry  
2 wants to break new ground here and get away from  
3 the concept that a pilot should be remunerated  
4 on the basis of a tariff based on tonnage, draft,  
5 dimension of vessels, and so forth. Although it  
6 recognizes that the remuneration of individual  
7 pilots should properly be related to the class of  
8 the vessels they are competent to pilot just as  
9 the pilots themselves do in the distribution of  
10 their funds. As you may recall that pilots of  
11 Class C or B - I don't remember well - do get  
12 lower remuneration than pilots of Class B. And  
13 of course Class A are the highest paid.

14 We say it is fallacious to say that the  
15 pilotage act has a greater value because the  
16 pilot has piloted a vessel which is, say, 10 feet  
17 longer, 1 foot deeper or 100 tons bigger than a  
18 vessel of the same class. In fact, from the point  
19 of view of work load the contrary may well be the  
20 case. I give what I readily concede is a stretched  
21 illustration, but let us assume a trip in the  
22 Quebec district from Les Escoumains to Quebec. In  
23 one case you may take a modern ship with a 30-foot  
24 draft, 10,000 gross tons, doing 18 knots, and it  
25 may very well with favourable tide do a trip in six  
26 or seven hours. A ship equipped with the most  
27 modern equipment. The trip is done in good weather  
28 and so forth. The tariff may provide then a due,  
29 and I am not intending to be precise, say \$200 for  
30 the sake of argument.







1 Now the next ship that comes is an old  
2 one, 5,000 tons. She is in ballast. The captain  
3 might even have pumped out his ballast. She is  
4 very light. She is a slow speed ship. She has  
5 to go against an unfavourable tide. She goes through  
6 fog, and it takes her 15 hours. The tariff will  
7 still be \$200 for that pilotage act.

8 The pilots have themselves recognized  
9 that the results of the tariff in this case should  
10 be evaluated by the pooling of the funds, but why  
11 has the system of the pooling of funds been created?  
12 The real reason, which is understandable, if it  
13 were not so pilots, with all due respect to them,  
14 would fight between themselves to get the best  
15 ship all the time. In other words, there would be  
16 competition among pilots to get the fast modern  
17 rather than the old slow one.

18 Under the formula that we propose the  
19 same results would obtain as under the pooling  
20 arrangements because, say, in over 100 trips the  
21 matter would be averaged. In other words, a pilot  
22 would not get over the season 100 old and slow  
23 ships. He might get one one day and then a fast  
24 ship the second day and so forth, so that the  
25 problem, with clear-cut application of the to and fro  
26 requirements would solve itself.

27 Now, it is in this regard that there  
28 has been a basic conflict between the shipping  
29 industry and the pilots over the last few years.  
30 Their counsel yesterday has told us that if this





1 type of formula were adopted it would justify the  
2 pilots in fearing that there would be created a  
3 relation of employer and employee between pilots  
4 and the users of their services. I say that this  
5 question of relation of employer and employee between  
6 the pilots and the users of their services is a  
7 purely abstract concept with no juridical consequence  
8 if the legislation is properly drawn.

9 For instance, on the issue of responsibility,  
10 relieving the pilot from responsibility for accidents  
11 to ships even though he might be responsible for  
12 the ship because of negligence and so forth.

13 Actually, and I think Your Lordship and  
14 you gentlemen will appreciate that in reading the  
15 briefs and the evidence, the brief of the Shipping  
16 Federation and the evidence in support, what the  
17 pilots have aimed for, and I would say successfully  
18 over the past few years in their negotiations over  
19 tariffs is this, and I will use here my illustration,  
20 and it is to receive for 100 trips "X" plus,  
21 the plus representing no actual additional work  
22 performed, and I think that this is the evil in the  
23 system.

24 I will go even further and I will say that  
25 the pilots have become masters in juggling the tariffs,  
26 but this is only to obscure really what they want  
27 to receive by way of earnings.

28 It is rather interesting in reviewing  
29 various briefs presented for this Commission to note  
30 very few people are satisfied with the present tariffs





1 or their structure. I want to note a few of the  
2 recommendations contained in some of the briefs.  
3 I might refer first of all to the brief of the  
4 Vancouver Chamber of Shipping, brief No. 3,  
5 recommendation No. 7 in which it is stated "the  
6 tariff should be negotiated between the Chamber  
7 of Shipping and the Pilotage Authority as the  
8 tariff is not a matter for discussion with the  
9 employees of the service."

10 This is in line, of course, with the  
11 recommendation of the Shipping Federation of Canada.

12 The pilots of Westminster, in brief  
13 No. 9, recommendation No. 4, have this to say:  
14 "The present-day method of compiling pilotage dues  
15 on a draft net tonnage is to be discarded. They  
16 should be compiled on a basis of maximum gross  
17 tonnage and draft."

18 The B.C. coast pilots have this to say  
19 in connection with pilots earnings: "There should  
20 be no restriction on the earnings of pilots as pilots  
21 have no guaranteed earnings and periods of greater  
22 earnings are justified because they are only realized  
23 by increased work."

24 THE CHAIRMAN: And they add to the evidence  
25 there that of course they would change that should  
26 they be guaranteed minimum earnings.

27 MR. BRISSET: Yes. What we would oppose  
28 is that in peak years pilots would be given this  
29 excess I am speaking of which does not represent  
30 work performed because I am sure that in the lean







1 years they will have forgotten that they had received  
2 this two or three or four years before and will  
3 complain about the decrease in their earnings.

4 The B.C. pilots also say that pilotage  
5 dues should be computed on the basis of the  
6 maximum tonnage of any ship.

7 The pilots of Saint John in brief No. 15  
8 state that the revenues of pilotage in Saint John  
9 being less than the average of pilots elsewhere,  
10 they should be brought up to the same scale. They  
11 are not thinking of the tariff, but of the actual  
12 results of the tariff there.

13 THE CHAIRMAN: I think this is an  
14 indisputable conclusion because the revenues of  
15 the district is their earning, so therefore there  
16 is a direct relationship between the revenues  
17 and the dues and their earnings. This is the way  
18 it is. It may be wrong, but this is the way it is  
19 and therefore we cannot blame them for this attitude.

20 MR. BRISE: I am not blaming them at  
21 all. On the contrary, I think there is justification  
22 for what is stated by them, and the formula we  
23 propose would be a method of rectifying what is wrong  
24 there.

25 The pilots of Halifax pilotage district  
26 have this to say in recommendation No. 3F, sub-paragraph  
27 (i), brief No. 24, where it is suggested that the  
28 tariffs be revised to provide a minimum income should  
29 the revenues of the district prove insufficient.

30 Frankly I do not see how this can be





1 achieved unless the formula that we advocate is  
2 accepted.

3 THE CHAIRMAN: There was already a  
4 solution proposed in effect for Saint John, New  
5 Brunswick, where there were funds in the estimates of  
6 the government for a minimum income should the  
7 revenue go down below, and it proved unnecessary  
8 and it was dropped because the years were better  
9 than the years before.

10 MR. BRISSET: Under this proposal the  
11 Halifax pilots - I imagine, as Your Lordship  
12 points out, that any deficiencies would have to  
13 be made up by funds coming from the government  
14 while under this scheme the deficiency would be made  
15 up by the users themselves out of reserves accumulated.

16 The pilots of Halifax suggest that  
17 although they do not want to be civil servants or  
18 prevailing rate employees, pointing out that still  
19 they are public servants, they suggest, I say, that  
20 they be given benefits accruing under the Public  
21 Service Superannuation Act. The point was raised  
22 yesterday, and perhaps this possibility should be  
23 investigated.

24 Dominion Steel and Coal Company, brief  
25 No. 25, they are very blunt: "Pilotage rates are  
26 too high."

27 Canadian National Railways, "There should be  
28 a maximum imposed on pilots' earnings", recommendation  
29 No. 2, brief No. 26. They go on, and this is  
30 interesting, "the amount of work required of a pilot







1 in the navigation of any ship bears little if any  
2 relationship to its tonnage, and therefore tonnage  
3 should not serve as a basis to vary the dues."

4 If the pilots were able to come under  
5 the Public Service Superannuation Fund possibly  
6 they could also come under the government group  
7 surgical and medical insurance plan. However,  
8 with Medicare coming into being everywhere it is  
9 a field in which I would not like to venture at  
10 this moment.

11 THE CHAIRMAN: In regard to the question  
12 of dues, a lot of discussion that took place - I  
13 am just wondering whether there is a question of  
14 lack of understanding of the underlying principle.  
15 The shipping interests look at it as the pin  
16 of the service while I think the way the law stands  
17 now it is really a kind of assessment to maintain  
18 the service. You have therefore a similar thing  
19 in municipal assessment. It is not because a  
20 building is fireproof that it is going to pay less  
21 assessment. It is the value of the building,  
22 although we are obliged to maintain fire stations  
23 and firemen for the other buildings where the work is  
24 almost nothing. So when we speak of the payment  
25 for service, that is all right. We have to go into  
26 all this procedure of ascertaining the degree of  
27 service for this ship more than the other, and a  
28 slow ship in ballast, going against a strong wind,  
29 through fog, and so forth should pay more than a  
30 fast one with all the equipment, but if this is







1 the kind of assessment, a common ground has to be  
2 found, and generally it is the value of the ship  
3 or some means averaged.

4 It all depends if you look at the price  
5 of the services or of the assessment, so I think  
6 as it is now it is an assessment.

7 MR. BRISSET: I submit, My Lord, at all  
8 events that this is a matter for negotiation and  
9 discussion between the ship-owners and the Authority  
10 because certainly the ship-owners should have a  
11 greater word to say in these matters. We foresee  
12 as a very distinct possibility the simplification  
13 of tariff structure, a tariff being arrived at on  
14 the basis of an assessment per class of ship.

15 THE CHAIRMAN: In the remark I made I  
16 did not want to criticize. I just want to show the  
17 situation as it exists. It may be it should be  
18 changed, but I tried to explain that had these  
19 discussions taken place and I think had the people  
20 on both sides realized this situation there would  
21 not have been any discussion, or the recommendations  
22 we have received - we have received all kinds  
23 of recommendations, and this basic principle was  
24 not thought of.

25 For instance, exemptions also for normal  
26 users of the service. If nobody is paying for the  
27 dues who is going to keep the service going?

28 MR. BRISSET: Well, we submit this as  
29 a thought simply that it may well be that eventually  
30 there can be a tariff based on an assessment per





1 class of ship. Of course distances would be taken into  
2 account. For instance, in Quebec, or what I call now  
3 the St. Lawrence River district, a ship going only  
4 from Les Escoumains to Quebec would, of course, not  
5 pay the same assessment as a ship going from Les  
6 Escoumains to Montreal.

7 The Canadian Merchant Service Guild have  
8 proposed a novel suggestion, at least in Canada, as  
9 to the method of calculation and they say "there should  
10 be an overall change in the foundation of the tariffs  
11 using for the formulation of such tariffs the dimen-  
12 sions of the vessels."

13 We would greatly welcome, I believe, in  
14 the shipping industry, simplification of the tariff.  
15 I believe that is an objective to be kept in mind.

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1                   What we are seeking here is a progressive  
2 approach to this problem, and while I am on this subject,  
3 as a side remark, recalling that the pilots have stated  
4 that the Shipping Federation had been, over the years,  
5 ultra conservative, I would like to list a few of the  
6 progressive achievements of the Shipping Federation in  
7 a number of spheres.

8                   I think I can rightfully say that the Shipping  
9 Federation was the first to suggest the abolition of the  
10 special pilots, or what we called the contract pilots,  
11 and that was done in 1957, in relation to the sailing  
12 masters; and I refer the Commission to Exhibit 1218,  
13 being an exchange of correspondence between Captain  
14 Matheson and Mr. Gerin-Lajoie, where the Shipping  
15 Federation made this proposal. Perhaps it would not be  
16 too far fetched for me to say that that gave the tone  
17 and eventually in other districts special pilots were  
18 abolished. I will not deny that in the shipping industry  
19 there was opposition in certain quarters, but there was  
20 also, on the pilots' side, and I do recall the evidence of  
21 Captain Rousseau when he spoke of the work he did in order  
22 to bring about the abolition of the system.

23                   Another progressive achievement was the  
24 apprenticeship plan, or scheme, for the St. Lawrence  
25 River, proposed by Captain Matheson in the years going  
26 as far back as 1957; and I refer the Commission to Exhibit  
27 E914.

28                   There was the development of the St. Lawrence-  
29 Kingston district, and you will recall the evidence of  
30 Captain Downey and Captain Matheson who worked together







1 in order to develop pilots for the ocean-going vessels  
2 in that area, with the agreement being reached that  
3 all ocean ships would use the pilots that would work  
4 in that area.

5 There was the development of the Montreal  
6 harbour pilots, and there was the reation and development  
7 by the Shipping Federation of the pilot service in the  
8 Great Lakes area.

9 I think the Shipping Federation should be  
10 given considerable credit for the development of these  
11 services in the Great Lakes area, and perhaps the pilots  
12 should realize this a little more cogently than they  
13 appear to have been doing.

14 I pass on, My Lord, to recommendation No.  
15 5, dealing with the selection of applicants for pilotage  
16 services and the formulation of apprenticeship systems,  
17 reminding the Commission, as I have already stated,  
18 that this should be done at a local level with the  
19 corporations and the pilots and the shipping industry.

20 The evidence is there that the shipping  
21 Federation has always taken an active interest in the  
22 development of apprenticeship schemes.

23 I think it is in evidence also that, for  
24 instance, the Shipping Federation has supported what  
25 was being done at the Rimouski School of Navigation.

26 The shipowners are not seeking -- far  
27 from it -- full control of these schemes and of the  
28 slection of pilotage material or applicants for pilot  
29 apprenticeship, but they want at least to have a  
30 minority role in the formulation of these schemes;





1 and I believe that their experience could be of  
2 assistance to those who will have charge of putting  
3 them into effect.

4 I pass on, my Lord, to the next re-  
5 commendation which has to do with the extension of the  
6 limits of the harbour of Montreal to the western limits  
7 of the harbour of Sorel. I have already spoken of  
8 that and I will not add very much more. You might  
9 recall that the pilots have reminded this Commission  
10 that the Shipping Federation, or the shipowners, had  
11 been opposed at the time to the division of the Montreal  
12 district at Three Rivers, but that finally they had  
13 realized, after experience, that this was at the time  
14 a good move.

15 I only express the wish that the opposition  
16 of the pilots, if the thing comes into being, will again  
17 dissolve when experience will have shown that the  
18 scheme can work.

19 On the subject of the additional workload  
20 that this might involved, with respect to the river  
21 pilots doing this stretch between Sorel and Quebec,  
22 I am not sure that I would agree with my learned friend  
23 that the workload would be excessive. He has only  
24 given in substantiation the number of hours of an  
25 average trip. True, the number of hours may vary  
26 considerably from ship to ship, but we certainly find  
27 in other districts, like the Welland Canal or the  
28 St. Lawrence Seaway, similar stretches insofar as time  
29 required is concerned.

30 There is only one remark I want to make





1 and it is this, that if, as recommended by the pilots,  
2 I believe -- but was conceded by the Shipping Federation --  
3 a docking pilot system is instigated in Quebec harbour  
4 the river pilots will no longer have to dock the ship  
5 at Quebec if the ship is to go there, and that is  
6 a relief, because it has been said that after a long  
7 passage it is rather tough for the pilot to do it  
8 because at times it is a tricky maneuver to dock the  
9 ship.

10 We have said that the Montreal harbour  
11 will progress -- extend -- as the years go. This  
12 is a process which is normal and it is happening at  
13 the present time. Docks will be built further down  
14 river. We already have the Contrecoeur transfer  
15 which is within the limits of what we propose to be the  
16 new pilotage area. There may be other docks or  
17 berth facilities built where the use of a docking  
18 pilot specializing in this particular operation will  
19 of extreme assistance.

20 Recommendation No. 7, My Lord and Gentlemen,  
21 does not require any particular comment. It is the  
22 convening of periodical or special meetings at the  
23 level of local pilotage authority between representatives  
24 of the pilots and the shipping industry for the purpose  
25 of submitting joint recommendations to the authority  
26 charged with improvements to aids to navigation and so  
27 forth.

28 We find a similar recommendation in the  
29 brief of the Federation of St. Lawrence Pilots, the  
30 Canadian Merchant Service Guild and, I believe, the







1 pilots of Saint John, New Brunswick, brief No. B1.

2 There is evidence before the Commission  
3 of numerous constructive suggestions made by pilots  
4 in the past and also by shipowners. We find that  
5 shipowners are concerned with, perhaps, one of the  
6 most useful and helpful bits of work that was ever  
7 done, which was the work done in connection with the  
8 publication of charts with recommended courses on the  
9 Great Lakes, which have been invaluable aids to navigation.

10 My Lord, I want to pass on to recommendations  
11 8, 9, 10 and 11 and speak here of a rather thorny  
12 subject, the corporation system. I might start on  
13 a light vein and say that, being an advocate of some  
14 experience, and perhaps, ability -- at least, of  
15 enough ability to recognize ability in others -- I  
16 cannot but have great admiration for the very clever  
17 manner in which the corporation system has been  
18 developed, particularly to effectively take over and  
19 ensure the absorption of the associations' functions  
20 prior to their advent in the St. Lawrence River district;  
21 primarily, to get complete control for their lifetime  
22 of the earnings of the pilots, whether or not they  
23 wanted to belong to this kind of corporation.

24 I know of no labour union, of no professional  
25 association, that has ever attempted a similar scheme.

26 The objectives of the corporations, to  
27 unite the pilots for the protection of their professional  
28 interests is, I agree, of course, allowable, and, of  
29 course, the Shipping Federation has never been opposed  
30 to that -- quite to the contrary; it has recommended





1 -- fostered -- the creation of associations intended  
2 to achieve this purpose; and I take issue with the  
3 insinuations that have been made before this Commission  
4 that these organizations were what is called in labour  
5 circles company associations. Far from it. What I  
6 want to say, however, is that in this case -- and I  
7 am speaking of the corporation in the St. Lawrence  
8 River district -- in this case the instrument that has  
9 been, in fact, created to achieve the objective of  
10 protecting the professional interests of the pilots is  
11 a dangerous one because of the control it exercises  
12 over the means of livelihood of the pilots.

13 This is not necessary in an association  
14 of this kind. I have to agree here with pilot  
15 Koenig in brief No. 30 when he intimates -- and I think  
16 he said so before this Commission -- that the corporations  
17 have all the elements of a dictatorship -- and I am not  
18 going to dig out my dictionary at this stage. Whether  
19 the dictatorship in the past has been benevolent or not  
20 is not the point. We say that the system contains  
21 in itself all the seeds of a possible malevolent one --  
22 and I am speaking here in a philosophical sense.

23 Why do I say that? Because it makes  
24 possible, first, control of all the pilots in a district  
25 by what I might call a small energetic minority.  
26 It also -- and I am referring to past events here --  
27 can be used, with all the means at its disposal, to  
28 obtain publicity and it can be used to sway the pilots'  
29 good judgment, for instance, by appeal to nationalistic  
30 slogans of, at times, dubious taste; and at this stage I







1 would like to refer to Exhibit E766 which contains  
2 extracts of the scrapbook of the Federation of St.  
3 Lawrence River Pilots. We see headings of this type  
4 in the newspaper articles:

5 "The Shipping Federation of Canada  
6 Dominated by Foreign Shipowners."

7 Then there is something like this:

8 "Les attaques que l'on m<sup>^</sup>eme avec persistance  
9 contre les pilotes du Saint-Laurent sont  
10 inconvenantes, surtout lorsqu'on songe  
11 qu'elles sont conduites par des etrangers  
12 mecontents de ce que cette profession soit  
13 presque entierement entre les mains de  
14 Canadiens francais. Il ne faut pas  
15 s'<sup>^</sup>etonuer si ces attaques se multiplient  
16 et si elles trouvent des oreilles sympathiques  
17 au sein m<sup>^</sup>eme du gouvernement federal. Car on  
18 n'a pas l'habitude de laisser les n<sup>^</sup>otres  
19 occuper longtemps des places de choix dans  
20 l'economie canadienne....."

21  
22  
23 MR. LALONDE: I think my friend should  
24 stress, in fairness, that this was written by a news-  
25 paperman.

26 THE CHAIRMAN: I am sorry, Mr. Lalonde;  
27 we did not hear what you said.

28 MR. LALONDE: I think my friend should,  
29 in fairness, have the honesty to state that this is  
30 a quotation from an editorial written by a newspaperman,







1 I think, somewhere in Three Rivers.

2 MR. BRISSET: I quite concede that point.

3 There are also declarations made by pilots,  
4 of course, reported in the Press, with respect to which,  
5 I suppose, the remark to be made by the person quoted  
6 would be "I was misquoted."

7 However, I don't want to spend more time  
8 on that.

9 The other seed of possible, what I call,  
10 malevolent dictatorship is that which results from  
11 the lack of the means of individual pilots to fight  
12 decisions of the Board of Directors of the corporation.  
13 The corporations themselves have at their disposal the  
14 totality of the pooled funds, including the earnings  
15 of pilots desirous of seeking redress from the  
16 corporation. I readily concede that I approach this  
17 with a biased mind, and I am asking the Commission to  
18 do the same just for the sake of the argument; and  
19 I hope, with this confession, I may be forgiven for  
20 some of the things I say.

21 It is significant that since the  
22 corporations were formed all new pilots have joined  
23 them even before getting their licence at times;  
24 although I agree it was stated "Sure, the licences  
25 are coming; they always come later after success in  
26 the examination." But there is still evidence  
27 that prior to the examination, during apprenticeship,  
28 there was at least gentle persuasion exercised over  
29 the apprentices by the representatives of the  
30 corporations.





1                   What I think is significant is that before  
2 the Commission we had a brief submitted by twenty one  
3 pilots of the Quebec district who expressed their  
4 opposition to the corporation system; but, more  
5 significant than that, is the fact that I believe six  
6 recanted a short time later; and recantation is  
7 something that strikes me as rather astonishing.

8 Under what system do you find recantation -- abject  
9 recantation?     I won't go further into this, for the  
10 members of the this Commission have enough experience  
11 to appreciate, I believe, knowing human nature for what  
12 it is, what abuses can arise if unscrupulous advantages  
13 are taken of the situation.

14                   I repeat, we do not deny that the pilots,  
15 for their own protection, should belong to a professional  
16 association, created to promote their interests in  
17 general, and I will go so far as to say that they  
18 should be forced to so belong in order to be able to  
19 exercise their profession and to contribute to the  
20 support of their associations by way of assessment  
21 dues in the usual way, provided only that the doings  
22 of their associations are subject to the scrutiny of  
23 the central board of pilot commissioners.

24                   I will not repeat what I have said in  
25 our brief in this regard, referring, for instance, to  
26 the practice followed in the State of New York, where  
27 I quote from a judgment rendered by the Commissioners  
28 there in a case involving a pilot who felt aggrieved  
29 by reason of a decision of his corporation to fine him.

30                   In fact, what we envisage are corporations





1 organized along the same lines as the new corporation  
2 of the B.C. pilots. I think Your Lordship and the  
3 Commission will be familiar with that organization.

4 THE CHAIRMAN: Have you read their  
5 charter?

6 MR. BRISSET: No, My Lord, I haven't.

7 THE CHAIRMAN: It is about the same,  
8 and with very wide powers. I think were all the  
9 powers carried out there would be no authority left to  
10 the...

11 MR. BRISSET: I understand it is not  
12 controlled, or distributed, or administered...

13 THE CHAIRMAN: They could do almost  
14 anything.

15 MR. BRISSET: They could?

16 THE CHAIRMAN: But don't do it. But  
17 they can't withdraw without the consent of the Board;  
18 but they could be dismissed from membership should the  
19 Board so decide. It is a very similar line of  
20 thinking.

21

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( Page 21,111 follows )

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30







1 MR. BRISSET: We do not oppose professional  
2 associations being formed with rather wide powers  
3 so long as there is a method of scrutiny or  
4 surveillance exercised over their doings by the  
5 way of appeal to the Pilotage Authority as you  
6 suggest.

7 What, however, we strongly advocate is  
8 that if the pooling of the dues is a system that  
9 will remain in existence, then that the management  
10 of the pool funds, the collection of the dues,  
11 distribution, and so forth, should be divorced from  
12 the control of the corporations, and such management,  
13 and especially the distribution, entrusted to the  
14 local pilotage authority.

15 In such a case if that was done we would  
16 not insist on this part of our recommendation which  
17 was intended to leave the pilots free to join or  
18 not join their professional associations. However,  
19 if the funds, pool funds are under the full and  
20 exclusive control of the corporations, we feel that  
21 at all times pilots should remain free to join or  
22 not join or to resign if they wish.

23 THE CHAIRMAN: In this vein I would say  
24 that in both bylaws there is a compulsory system  
25 or association. That is the pilots' committee.  
26 The pilots' committee in most of the bylaws is  
27 a compulsory mandate that is imposed on the pilots,  
28 and this committee is the only person that can  
29 negotiate with the Pilotage Authority on pilotage  
30 matters. So there we have something about a group





1 organization that is foreseen in the by-law.

2 MR. BRISSET:I quite agree, and I think the  
3 legislators realized that for negotiation purposes  
4 there has to be a group, a small group or committee  
5 representing the interests of all, because you can  
6 hardly sit around a table and negotiate, say, in the  
7 district of Quebec with eighty pilots around the table.  
8 It would be impossible.

9 THE CHAIRMAN: But that force or that  
10 compulsory mandate is only limited to pilotage matters.

11 MR. BRISSET:Yes.

12 THE CHAIRMAN: And they cannot have the  
13 power to change their remuneration, for instance, or  
14 the way the money should be spent and so on. It is  
15 limited only to those negotiations or to the complaints  
16 of the relations between the Authority and the pilots.

17 MR. BRISSET:Yes. My lord, I pass on here  
18 to -

19 THE CHAIRMAN: Shall we adjourn for a few  
20 minutes?

21 MR. BRISSET:Yes.

22 THE CHAIRMAN: You have been there for an  
23 hour and a half now. We will adjourn for ten minutes.

24 ---SHORT ADJOURNMENT.

25 MR. BRISSET:My lord and gentlemen, the other  
26 thorny question that comes within the purview of the  
27 recommendations which I am now viewing is whether  
28 pilots should or should not be given the right to  
29 strike either to enforce their economic demands either  
30 from the point of view of remuneration or working







1 conditions. I need not remind this Commission of the  
2 1962 strike and the threats of strike that have been  
3 made in the years that followed the appointment of this  
4 Commission, that to a great extent led to the creation  
5 of this Commission by the government to enquire into  
6 all aspects of pilotage matters.

7 I repeat that pilotage, and particularly in  
8 the St. Lawrence River, the Great Lakes Basin, is an  
9 essential public service and the shipping industry is  
10 emphatically against the pilots being given the right  
11 to strike, but if this strike is to be recognized,  
12 then we submit that strike action should only be  
13 possible after the pilots have gone through the  
14 statutory requirements applicable in cases of other  
15 industrial disputes involving labour.

16 We have fully developed this in our brief,  
17 and I do not intend to repeat here the arguments which  
18 we have advanced. I want, however, to stress that in  
19 these matters whereas the law does not saddle the  
20 pilot with responsibility for negligence in the  
21 performance of his pilotage act, we consider that the  
22 law should recognize the principle of collective  
23 responsibility on the part of pilots for collective  
24 action taken by them in the field of economic action,  
25 and by that I mean action that caused damages to the  
26 users of their services.

27 There has been evidence before this  
28 Commission showing how costly delays to shipping may  
29 be, and I need not stress the damages are not only  
30 sustained by the ship owners themselves, but by the







1 public in general insofar as interruption of the service  
2 affects the economy of the country.

3 I want to pass on now to recommendations  
4 number 12 and 13, which, if I may summarize them in a  
5 few words, have to do with the investigation of  
6 casualties and the steps to be taken to ensure that the  
7 pilot will always be fit mentally and physically to  
8 perform the pilotage act he is called upon to perform.  
9 I think it is evident from the evidence produced before  
10 this Commission that the provisions of the Canada  
11 Shipping Act and of the by-laws enacted thereunder  
12 in the various pilotage districts having to do with  
13 disciplinary measures need complete overhauling for  
14 the protection of the users of the pilots' services,  
15 and I will add, for the protection of the pilots them-  
16 selves.

17 For instance, we say that the investigation  
18 procedure into casualties will have to be revised,  
19 particularly if the decision of Mr. Justice Frederick  
20 Dorion, the Chief Justice of the Superior Court here  
21 in the recent case involving pilot J. Pouliot and  
22 rendered on the 20th of November, 1964 in the Superior  
23 Court of Quebec, is well founded. I don't know whether  
24 the Commission has a copy of that judgment.

25 THE CHAIRMAN: We intend to obtain all that.  
26 I think there is a series of certiorari that was taken.  
27 This was not obtained from the Department of Transport,  
28 I am told.

29 MR. LANGLOIS: As your lordship knows, I  
30 was involved in these court proceedings, and I have





1 here photo copies of them, the petition and also the  
2 judgment, and I intend to file them with the leave  
3 of the Commission.

4 THE CHAIRMAN: We thank you very much, for  
5 we are much interested in that. It is a problem that  
6 has to be settled once and for all and we are indeed  
7 interested in knowing about this. This is only one  
8 of the certioraris. This is only one of them.

9 MR. LANGLOIS: Yes.

10 THE CHAIRMAN: Because there was another one  
11 taken after his decision.

12 MR. LANGLOIS: No, my lord.

13 MR. BRISSET: Preliminary enquiries provided  
14 under the Canada Shipping Act are presently conducted,  
15 perhaps informally, if I may use this expression, as  
16 the investigating officer in the course of his in-  
17 vestigation, for instance, of a collision will travel  
18 quite often to the ships involved, seek out the  
19 witnesses and obtain their statements, including the  
20 statement of the pilot who may be concerned. This  
21 work will, at all times, require the officer to travel  
22 extensively and to spend considerable time in gathering  
23 his evidence. I am aware of preliminary enquiries that  
24 have required weeks to be completed.

25 Now, in referring to the judgment of Mr.  
26 Justice Dorion, we find that to permit an investigating  
27 officer to express the opinion that the casualty was  
28 due to a gross act of misconduct or negligence, for  
29 instance, on the part of a pilot, in order for him to  
30 order a suspension of three days under Article, I







1 believe, 552 of the Canada Shipping Act, which  
2 suspension will remain in effect thereafter - Article  
3 555 - which suspension will remain in effect thereafter,  
4 if the Minister orders a formal investigation and so  
5 notifies the pilot within the three days, the in-  
6 vestigating officer will have to take the pilot and his  
7 counsel along with him all through the investigating  
8 process.

9 If more than one pilot is involved in, say,  
10 a collision between two ships, then all these pilots  
11 so involved and their counsel will have to be taken  
12 along and assist during the taking of the evidence by  
13 the investigating officer, which I say is a rather  
14 cumbersome procedure and rather impractical.

15 I might add, as a practicing maritime  
16 lawyer, I can only shudder at the thought that pilot  
17 with his counsel will be permitted to be present at  
18 the interrogation of the witnesses on board a ship  
19 with which his own vessel might have been in collision  
20 and which I might represent without being given myself  
21 the opportunity to attend the interrogation of the  
22 pilots and of the witnesses on his ship in order to  
23 protect the interests of my own vessel.

24 What are the solutions to the problem?  
25 Should we do away completely with the preliminary  
26 enquiry and proceed with an investigation similar to  
27 that conducted by the United States Coast Guard, for  
28 instance, in the United States, at which all parties  
29 concerned are permitted to attend, for instance, in the  
30 case of a collision between two vessels at the







1 interrogation of the witnesses of both ships, a type  
2 of enquiry which I think might mean the re-establish-  
3 ment in Canada of the Wreck Commission's Court as the  
4 Shipping Federation of Canada advocates it. That  
5 would, perhaps, be one solution. That will not solve  
6 all problems, and I will refer to that later.

7 Should we take away from the investigating  
8 officer holding a preliminary enquiry and from the  
9 Minister the right to suspend the license of a pilot  
10 pending a formal investigation, still leaving to the  
11 Court, either the Wreck Commissioner's Court or a  
12 Court of Formal Enquiry under Section 571 the right to  
13 call for delivery of the pilot's certificate once an  
14 investigation has commenced?

15 Perhaps that should be done, but there will  
16 remain another problem which I want to touch on here.  
17 I think that the difficulties with which we are faced  
18 may arise from the fact that too much significance is  
19 given to the words, and I quote, "suspend the pilot's  
20 license" in Section 555 of this Canada Shipping Act.

21 What, in fact, is intended is that the  
22 pilot concerned should not be re-assigned to a ship  
23 until it has been finally determined whether the  
24 casualty in which he was involved was due to gross  
25 negligence, misconduct, requiring punishment, but also,  
26 and primarily, to determine whether he is fit to  
27 continue to exercise the pilotage act. And I mean  
28 fit mentally or physically.

29 This is a protection which the users of  
30 the pilots' services must be given at all costs, and





1 the case of the grounding of the OAK HILL, followed  
2 by the grounding of the CONTINENTAL PIONEER, in regard  
3 to which evidence was submitted before this Court, are  
4 typical cases and, I think, amply demonstrate the  
5 necessity to give this protection to the users of the  
6 pilots' services. It is all very well to speak of  
7 safeguarding the rights of the pilots to earn their  
8 living under the Bill of Rights, but there are also  
9 the rights of those on board ship and the safety of the  
10 property on board that ship and the ship herself which  
11 should not be put in jeopardy.

12 For that reason, the Shipping Federation of  
13 Canada is strongly of the opinion that the local  
14 authorities should have unfettered power to remove a  
15 pilot at any time from the assignment list or tour-de-  
16 role , if there is any doubt about his fitness,  
17 physically or mentally, or his ability to continue  
18 performing the pilotage act, and this until a  
19 thorough investigation which may include medical  
20 examination has either confirmed or dispelled the  
21 doubt.

22 I will say this, that one pilot in a  
23 district may be removed for cause from the assignment  
24 list, even before the cause has been determined to be  
25 well founded is a professional risk which other pilots,  
26 or the consequences of which the other pilots should  
27 accept just as they would accept the consequence of  
28 the illness of one in their group.

29 As I say, they suffer no real prejudice  
30 from the removal of that pilot from the assignment list







1 during the investigation process. Suspension of a week,  
2 two weeks, even of a month of a pilot in a district,  
3 for instance, like that of Quebec, cannot increase the  
4 work load of the other pilots to any appreciable  
5 extent. We know that there are some eighty pilots in  
6 Quebec, and let us assume that because a collision  
7 has occurred even two pilots are suspended for a month  
8 during the investigating process, that this would mean  
9 perhaps, say, twenty trips, and these twenty trips  
10 divided amongst the eighty or seventy-eight other  
11 pilots would mean during that month about one-quarter  
12 of a trip more for each of the remaining pilots.

13           There is the question, of course, of the  
14 remuneration of that pilot during the suspension if  
15 the suspension proves to have been unwarranted. I say  
16 suspension, meaning again removal from the assignment  
17 list. Then the pilot can either make up the trips  
18 he has missed, or be paid a concession for such trips.  
19 A scheme that could be worked out if the formula we  
20 have advocated is adopted, he would be simply given  
21 additional turns as they do in the distribution of  
22 the pool funds within the corporations themselves.

23           In other words, even during the suspension  
24 the pilot could still receive his allowance, for  
25 instance, monthly allowance or weekly allowance if he  
26 is to be remunerated on the basis of a week or a month,  
27 and then the adjustment would be made later on. If  
28 the suspension was found warranted by the court in the  
29 case of a formal enquiry, or enquiry by the Wreck  
30 Commissioner and the allowance paid during his







1 suspension, if the suspension is to be ante-dated,  
2 it will have to be accounted for in the final adjustment.  
3 We note, for instance, that directors of the corpora-  
4 tion attending corporation business  
5 are allowed such turns, so there is nothing novel in  
6 the suggestion I have made to take care of pilots'  
7 remuneration during an unwarranted removal from the  
8 assignment list.

9           There seems to be general agreement amongst  
10 the various interests that have appeared before this  
11 Commission who are particularly concerned in this  
12 matter, agreement I say to the effect that the  
13 investigating procedure needs to be revamped, and I  
14 refer to the brief of the Vancouver Chamber of Shipping,  
15 brief No. 3, recommendation No. 3, where they say,  
16 "We respectfully recommend that all enquiries in case  
17 of accident should be open to the ship owner or  
18 master or agent involved and that he be entitled to  
19 obtain copy of the findings upon proper request".

20           The Federation of St. Lawrence River Pilots,  
21 Brief No. 28, recommendation No. 30, has recommenda-  
22 tions to make calling for necessary revamping of the  
23 investigating procedure.

24           The Canadian Merchants Service Guild, and  
25 rightly so, has considerable recommendations to make  
26 in this regard, and they are amplified in paragraphs 80  
27 to 92 of the brief, brief No. 53. If I may say so  
28 respectfully, however, the protective steps contem-  
29 plated as having to be taken not to jeopardize the  
30 pilots' rights are, in my opinion, so drastic and





1 complex that they would never permit a thorough and  
2 effective investigation.

3 I believe that the difficulty here is that  
4 there is confusion between investigation and what I  
5 would call trial. In other words, we should not con-  
6 sider that the investigation is itself a trial. It is  
7 just the preliminary process to the eventual trial.

8 I think we have submitted to this Commission  
9 ample evidence showing the grave results that have  
10 obtained by reason of accidents that possibly might  
11 have been avoided if protective measures had been taken  
12 earlier. The amounts involved in the case of losses,  
13 and, of course, also the loss of lives as your  
14 Commission well knows, have been catastrophic in the  
15 last year or two.

16 During the recent formal enquiry into the  
17 collision of the LEECLIFFE HALL and the APOLLONIA  
18 there was one recommendation made on behalf of the  
19 shipping industry, namely that pilots, in particular,  
20 should, for instance, during the off-season in the St.  
21 Lawrence be given refresher courses in radar, and we  
22 sincerely hope that the Court will support this  
23 recommendation.

24 Speaking for myself, I have come to the  
25 conclusion that the collision was due to improper  
26 interpretation of the radar image on both ships. It  
27 can only be related to the inexperience or not  
28 sufficient knowledge of the operators at the time.

29 I would like, my lord, to pass on now to  
30 the brief of the Shipping Federation dealing with the







1 problems of pilotage on the Great Lakes, and the  
2 recommendations made therein. There are problems,  
3 and serious problems, in the administration of the  
4 pilotage services on the Great Lakes at the moment.  
5 This may be traced back to the history of that  
6 legislation and to the fact that a system was estab-  
7 lished as a result of compromises made following the  
8 pressure of various interests, some of which I might  
9 say had other objectives in view than strictly  
10 pilotage.

11 Our first recommendation has to do with the  
12 abolition of pilotage on the open waters of the Great  
13 Lakes. For this, the Shipping Federation of Canada  
14 has fought all along from the beginning, from the  
15 introduction of the first legislation in the United  
16 States Congress, way back in 1957.

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W/rps

1 What I want to stress before this  
2 Commission is that the Shipping Federation at the  
3 time fought not only for the establishment of a  
4 sound system of pilotage on the Great Lakes but  
5 also for the right of the ocean ships to trade into  
6 the Lakes. Perhaps this has not yet even now been  
7 fully understood by the pilots who are now exercising  
8 their persuasion in that area.

9 I would recommend to them to read  
10 some of the minutes of a conference called by the  
11 U.S. Coast Guard away back in 1955, which has been  
12 filed before this Commission as Exhibit No. 1221.  
13 The theme developed during that conference can be  
14 summarized briefly as follows, and it is this, that  
15 once an ocean ship entered the Great Lakes Basin  
16 the master and her navigating officers were no longer  
17 competent to proceed, for instance, from Cape  
18 Vincent to Toronto, or to find their way safely  
19 across the open waters of the Lake. That is why  
20 there was then suggested the sort of principle which  
21 more or less meant that these officers would have  
22 to be replaced by local personnel -- call them  
23 pilots, if you wish -- which, of course, meant  
24 that in practice trading by the ocean ships into  
25 the Lakes would become a practical impossibility.

26 Captain Rolla Johnson had attended  
27 this meeting and he intimated that these pilots  
28 that would have to more or less replace the  
29 officers of the ocean ships would have to be  
30 English-speaking, and there was an amusing remark





1 on his part which I would like to quote when he said  
2 this at page 67:

3 "I didn't want to get into this because  
4 it actually is embarrassing to me in  
5 one way, but I have over 50 men who  
6 are Frenchmen out of 182 Canadians,  
7 and some of them are difficult to under-  
8 stand when you are talking to them face  
9 to face. I will bring that out, because  
10 we are going to have to negotiate a  
11 treaty with these folks, and those  
12 52 men are very difficult to understand."

13 Further on at page 76 he said:

14 "While I appreciate having two pilots  
15 or more. . . " -- that is through the  
16 Lakes --- " . . . let us say that anything that  
17 is worked out we will do our best to  
18 work it out."

19 Captain Jonassen, on the same page --  
20 and Captain Jonassen has now been appointed adviser  
21 to Captain Meschter the Administrator of United  
22 States Pilots on the Great Lakes -- Captain Jonassen  
23 had this to say:

24 "I think that two pilots should be the  
25 minimum that we should have on any of  
26 these ships that are going to go through  
27 more than one lake."

28 Generally, that is the theme that developed all through  
29 this conference which eventually led to the legis-  
30 lation which was so strongly opposed by the shipping





1 industry, and particularly the Shipping Federation  
2 of Canada. The Shipping Federation of Canada has  
3 always taken the stand that the officers of ocean-  
4 going vessels were qualified to navigate on the open  
5 waters of the Lakes, provided that they met certain  
6 requirements, or sat a certain examination on the  
7 rules of the road applicable there. In fact, even  
8 although there has been some pilotage in open waters,  
9 as your lordship well knows, with the B licence  
10 system, a good many ships have gone through the open  
11 waters without pilots, and the experience has proven  
12 the Shipping Federation to be right. I think it is  
13 quite accurate for me to say that there is little  
14 incidence of accidents to vessels -- ocean-going  
15 vessels -- in the open waters, as compared, for  
16 instance, to pilotage waters.

17 I know of only two serious accidents  
18 that happened away back in 1959. There was the  
19 collision between the ROYALTON and the MANROVIA,  
20 the latter being sunk; and I don't know whether this  
21 is on record, but the decision was that both ships  
22 were found to be to blame. There was also the  
23 collision between an ocean ship and the United  
24 States Coast Guard cutter CALL. I forget the name  
25 of the ocean ship. But there again, both were found  
26 to blame.

27 We have explained in the documents  
28 that are before this Commission, and particularly  
29 in the annex to the brief -- the Great Lakes brief --  
30 No. 40, how it was that the MANROVIA ever got into the







1 Lakes without going through any inspection.

2 As opposed to the stand taken by the  
3 Shipping Federation of Canada that a pilot is not  
4 required in the open waters, some arguments have  
5 been advanced here that, for instance, some ships  
6 having officers on board with B licences are still  
7 taking open water pilots, and I will say that, in  
8 my humble opinion, this proves nothing; in fact, I  
9 believe I am right in stating that this was proven  
10 to be only a minority.

11 It has been said also that pilots  
12 on the open waters are required, because there is  
13 a lack of personnel on ocean ships.

14 In fact, I believe that on ocean ships,  
15 generally, there is more personnel than on lake  
16 ships, but I will, however, admit, and we will  
17 concede, that this is a problem. There are ocean  
18 ships short of personnel, but we don't feel that  
19 the remedy or cure for that is to take a pilot. Why?  
20 Because the pilot, in fact -- and I am speaking of  
21 the open waters pilot -- does not take a watch; the  
22 officers of the ship still have to take their normal  
23 watches; so he is not a useful addition, personnel-  
24 wise. The pilot is not suddenly going to do deck  
25 work; and if the ships are short of deck personnel,  
26 say, for handling lines, or for another reason, the  
27 remedy is not to take an open waters pilot.

28 The proposal here, or the argument  
29 advanced here, reminds me of an argument advanced by  
30 Captain Rolla Johnson during the hearings before the





1 Committee of the House and Senate in the United States.

2 One of the reasons that he was advocating pilots on  
3 the open waters was that the pilot should be placed  
4 there for security reasons. In other words, he gave  
5 an illustration -- unfortunately, I haven't the  
6 reference in his evidence, but the statements are  
7 before this Commission -- he gave the illustration  
8 that you might have a Russian ship coming into the  
9 Lakes and it would be a good thing to have a pilot  
10 on board for security to see to it that the crew didn't  
11 do anything wrong. Well, I hardly visualize that  
12 a pilot acting in such a capacity has anything to  
13 do with pilotage.

14 I might add that the Canadian Govern-  
15 ment from the beginning -- and I want this fully  
16 understood -- was in complete agreement with the  
17 Shipping Federation on that score, and I need only  
18 to refer to the memoranda which were filed by the  
19 Canadian Government with the Secretary of the Depart-  
20 ment in the United States. In these memoranda, and  
21 in all the negotiations of which the Shipping  
22 Federation was aware at the time, there had been  
23 no question of the two-trip requirement to qualify  
24 a man for a B licence, and it is clear from the  
25 correspondence that has been filed before the  
26 Commission, particularly, I believe, in the letter  
27 from the Minister himself addressed to the Shipping  
28 Federation, that this two-trip requirement had to  
29 be agreed to, otherwise the whole legislation would not  
30 have been passed. It was purely a compromise in order





F2 1 to avoid a greater evil, and I do not think there is  
2 in this justification to question the system in force.

3 That pilots are not necessary on the  
4 open waters is supported by the following -- and I  
5 refer to both their brief and to their evidence:

6 First of all, the Association of Great Lakes Ports,  
7 brief No. 43, Recommendation No. 3; the submission  
8 of the Toronto Harbour Authority, brief 37, and the  
9 evidence of their witnesses in cross-examination.

10 I recall two masters who were testifying who did  
11 concede that pilots were not required in open waters.

12 The same applies to the submission and evidence of  
13 the Hamilton Harbour Commissioners, brief 38; the  
14 Dominion Marine Association witnesses, and I recall  
15 the evidence of Captain Bodensieck which was in  
16 support of the proposition that I have expounded  
17 just now.

18 Finally, Captain Stevenson, of the  
19 Great Lakes Professional Pilots Association, under  
20 examination, I believe, also conceded that the  
21 officers of ocean vessels were quite qualified to  
22 navigate their ships in open waters; and the same  
23 for Captain Enrico of the Lake Superior Association.  
24 However, on this matter the Lake Superior Pilots'  
25 Association in their brief have submitted a  
26 recommendation which is contrary to what I have  
27 just stated, and I refer to brief 49, Recommendation  
28 No. 1, which goes considerably further than the  
29 present state of the Regulations and the law at the  
30 moment. They recommend that:







" . . . at all times in the open  
waters there be on the bridge of the  
vessel an individual who is a regular  
watch-keeping officer of the vessel . . . "

-- meeting the following requirements, and amongst  
those requirements is "at least two prior trips in  
the specific waters on which the vessel is sailing."

In other words, every navigating  
officer taking a watch must meet this requirement,  
which, in fact, means that, except, perhaps, for  
very regular traders, no ocean ships will be able to  
meet that strict requirement, as in most cases you  
will find only one of the officers having qualified  
for the certificate on board these ships.

It is strange that during the hearings  
on the United States Pilotage Station, in the Committee  
of the House and the Committee of the Senate, this  
attitude had been taken by the Lake Superior Pilots'  
Association; and similarly in a letter addressed by  
their counsel, Mr. Fredin to Senator Magnuson  
-- and I refer here to Exhibit 1263 which I need not  
read at the moment -- the Shipping Federation has from  
the beginning and consistently opposed pilots on  
the open waters; but, on the other hand, has advocated  
a system of inspection of ships before they proceed  
into the Lakes; and we still find considerable merit  
in this approach.

I have detailed in our brief what  
this inspection should consist of, and I don't need  
to go over it again except to mention that the system





1 advocated has the approval of the following:

2 First, the Great Lakes Ports Association (and I  
3 refer to Brief 43, Recommendation No. 2); the Lake  
4 Superior Pilots' Association so recommend (and I  
5 refer to their brief, B49), and I don't have, at  
6 the moment, the number of recommendation, but it  
7 is to be found in there; another such recommendation  
8 -- and I would say that this is the first time I  
9 have quoted, in support, Captain Rolla Johnson. is  
10 Captain Johnson's Brief 41, Recommendation No.2.

11 I want to pass on to the second  
12 Recommendation, because I do not think I need to  
13 repeat for this Commission all the evils or evil  
14 consequences that could flow from this system of  
15 open water pilotage on the efficient administration  
16 of pilotage in the restricted waters where the pilots  
17 are needed. I will only add one comment, and it is  
18 in relation to pilots in restricted waters on ships  
19 of Commonwealth registry; and I am speaking of lake  
20 ships manned by officers having the same qualific-  
21 ations as other lake vessels, navigating in these  
22 waters; and I make this statement that the legislation,  
23 both in Canada and in the United States, forcing  
24 pilotage on these ships, is, in my opinion, contrary,  
25 in the case of Canadian waters, to the British  
26 Commonwealth Shipping Agreement, or in contravention  
27 of the British Commonwealth Shipping Agreement, in  
28 the sense that what is done amounts to discrimination  
29 against British vessels. In the United States it  
30 is in breach of the Washington Treaty of 1909 -- the





1 International Boundary Waters Treaty, 1909. Seeing  
2 a representative of the Department of Transport  
3 here, I will even say that, in my humble opinion,  
4 the owners of these Commonwealth ships have a claim  
5 against the Government to recover the pilotage dues  
6 that have been illegally imposed upon them.

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1                   However, this is not a problem, of course,  
2 of the ocean shipping industry, except insofar as  
3 it disrupts the pilotage services to which they are  
4 entitled, and, of course, which they need in these  
5 waters.

6                   Passing on to the second recommendation  
7 which has to do with the division of the Great Lakes  
8 Basin into spheres of operation, Canadian and American,  
9 I do not want to add too much to what has already been  
10 said, because I have explained that we foresee  
11 eventually, if the proposal is implemented, only two  
12 districts for the whole of the Great Lakes Basin; one  
13 American and one Canadian, under one single local  
14 authority.

15                  I do not want to convey to this Commission  
16 that there should not be, nevertheless, an over-all  
17 agreement - call it broad policywise - between the  
18 two governments on the score of the administration  
19 of the pilotage services and the furnishing of these  
20 pilotage services in the Great Lakes. I think over  
21 the two local authorities, American and Canadian,  
22 should be, of course, supervising bodies; in Canada  
23 it will be the Central Board of Pilotage Commissioners  
24 and, in the States, of course, the Administrator under  
25 the jurisdiction of the Department of Commerce, but  
26 the two should certainly be working together under a  
27 broad policy agreement to implement a policy which  
28 should be directed to promote the development, and  
29 of course, also the safety of the traffic and trade  
30 into the Great Lakes Basin.





1           That the Canadian sphere of operations should  
2 be set up in the manner in which we have indicated in  
3 our brief and in the chart which has been filed as an  
4 exhibit would permit the Canadian authorities to solve  
5 independently, and on the Canadian side, keeping in  
6 mind Canadian interests, the following problems: (a)  
7 that of the harbour of Kingston, on which evidence has  
8 been submitted before this Court and in the brief, B-29;  
9 that of pilots going outside their district, to which  
10 there is a reference in the brief of the Professional  
11 Pilots of the Great Lakes, brief number 36, at page 25.

12           If this sphere of operation of the Canadian  
13 Government extended from not any further than the upper  
14 end of the Welland Canal, I think the problem could  
15 easily be solved. It would solve the problems of the  
16 Toronto Harbour Commissioners, as well as those of the  
17 Hamilton Harbour Commissioners. It would solve the  
18 problems referred to in the brief of the pilots of  
19 Lake Superior, brief number 49, recommendation number  
20 8.

21           I repeat that the Welland Canal now has  
22 produced an improbable situation from the point of view  
23 of delays to ships, by reason of non-availability of  
24 pilots or generally the administration of pilotage in  
25 that area, and this is a Canadian problem, or should be  
26 recognized as a Canadian problem which should be  
27 settled here in Canada without interference from the  
28 American Administrator.

29           The division that we have recommended or  
30 advocated is supported by the Canadian Ship Owners







1 Association - I want to remind the Commission of this  
2 in brief 55, paragraph 2 (a) 1.

3 As to restricting the activities of the  
4 Canadian pilots to the Welland Canal for that area,  
5 we have heard some arguments to the effect that  
6 pilotage is difficult in that area and that pilots  
7 would need additional rest. This, we do not deny -  
8 we readily concede - but we say that the method of  
9 giving of rest is not to allow this pilot, for instance,  
10 to go to Lake Erie on the ship in order to resume his  
11 duty at the other end. He could very well be given  
12 the same rest that he would get there at home, as I  
13 imagine most of the pilots serving in the Welland  
14 Canal live in the vicinity.

15 I had the impression from the evidence I  
16 have heard and from the arguments I have heard that  
17 the pilots would suffer from a new sickness if they  
18 were allowed to remain in the Welland Canal to perform  
19 their pilotage acts. I would call this "canalitis," but  
20 I think I must submit respectfully that this should be  
21 taken, I think, with a grain of salt.

22 I was rather amused by the remarks of some  
23 witnesses when questioned on this division of the Lakes  
24 into spheres of operation, Canadian and American. I  
25 recall that on the American side the only argument  
26 that was advanced was that they liked the Canadian  
27 pilots. There is nothing wrong with that. On the  
28 Canadian side they liked the American pilots. But  
29 surely, purely from a business point of view, this is  
30 not a valid excuse to continue a system which, we







1 submit, does not give the efficient services which the  
2 ships require.

3 My learned friend has stated in opposition  
4 to this recommendation that we would be dividing the  
5 Great Lakes Basin into five districts and that this  
6 would be much more costly to the ships. I am, of  
7 course, touched with his interest in the cost to the  
8 ship, but I think that I should stress again that we  
9 foresee that exactly the reverse will happen. We will  
10 have less districts than at the moment. I do not want  
11 to go into this any further. I think, in the course of  
12 my address earlier, I have already stated what should  
13 have been stated in relation to this particular  
14 recommendation.

15 We foresee that as a result of only two  
16 districts eventually in the Great Lakes Basin from  
17 Montreal on, we would reduce the high cost of admini-  
18 stration that we are faced with at the moment.

19 The Computing Devices Company of Canada  
20 have submitted a brief showing, in our opinion, that  
21 a system of central information bureau could also be  
22 established in the Great Lakes to centralize the  
23 administration and streamline dispatching operations.

24 The other recommendations, my lord, con-  
25 tained in our briefs on the Great Lakes do not require  
26 too many comments. We foresee, for the ports in the  
27 Great Lakes, a flexible system that may be adjusted,  
28 depending on the needs of the ships going there, and  
29 the system advocated by the Commissioners of the  
30 Harbour of Toronto and Hamilton is entirely satisfactory





1 to the shipping industry.

2 That more authority be exercised at the local  
3 level is a theme which I do not think needs to be  
4 developed again. The Corporation of Great Lakes  
5 Pilots and the Lake Superior Pilots Association  
6 support this.

7 That representatives of the shipping  
8 interests be permitted to attend meetings held between  
9 officials of the United States Great Lakes Pilotage  
10 Administration and the Canadian Government would seem  
11 to be on its face, a recommendation that can hardly  
12 be disputed. I will go so far as to say that Canada,  
13 or the Canadian Government, would seem to favour such  
14 a state of affairs, and if I may be permitted, I would  
15 like to file as an original exhibit, an exchange of  
16 correspondence between the Shipping Federation of  
17 Canada and the Department of Transport on this subject.

18 Unfortunately, the Canadian Government has  
19 informed the Shipping Federation that this recommenda-  
20 tion was not possible to implement, and we understand,  
21 because of some of the provisions on the American side.  
22 Perhaps a number should be given to this.

23 THE SECRETARY: 1434, my lord.

24 MR. LANGLOIS: Would you describe the  
25 documents, please?

26 MR. BRISSET: The exhibit is an exchange of  
27 letters, one dated December 4, 1964 from the Shipping  
28 Federation to Mr. Alan Cumyn, Director of Marine  
29 Regulations, and the other is a letter in reply from  
30 Mr. Alan Cumyn, dated December 14, advising the







Shipping Federation that representatives of the shipping interests could not be permitted to attend the meetings in question.

---EXHIBIT NO.1434: Letter dated December 4, 1964, from the Shipping Federation to Mr. Alan Cumyn; letter dated December 14 from Mr. Alan Cumyn to the Shipping Federation of Canada.

MR. BRISSET: To us in the shipping industry, it seems incomprehensible that decisions adopted which will actually offset the operation of commercial ships, decisions taken with all due respect to them by persons having actually no practical experience in matters of commercial shipping operations, should be taken without the advice of those who are in the business. I am not referring here to decisions that have to do with the pilotage act itself; that concerns the pilot primarily, but decisions that have to do with the administration of the service, having to do with the problems raised by dispatching, the problems raised by the communication of information on the position and itinerary of the ships, decisions that have to be taken in relation to removal of pilots from ships to avoid detention, decisions that have to be taken in connection with whether, for instance, a pilot boat at Southeast Shoal can be economically and efficiently put in service.

My lord, we have gone, I would say, in great length in matters that are really argumentative in our brief, and I do not think that I will spend more time on the problems on the lakes. They are







1 numerous. We could spend days on them. There is ample  
2 correspondence and evidence before your lordship in  
3 regard to these, and I think they are fully understood  
4 by the Commission.

5 Before I reach my concluding remarks, my  
6 lord, I would like to say a few words, and I believe  
7 that if I am permitted to go on, I might finish at  
8 this session. I just want to say a few words of  
9 criticism directed to some of the recommendations  
10 contained in the brief of the Federation of St.  
11 Lawrence River Pilots.

12 My first criticism is directed towards the  
13 structure proposed by the Federation with respect to  
14 not only the administration of the pilotage services,  
15 but also the executive side, the policy side of the  
16 topic. Of course, I would have to concede that I  
17 approach the problem from a different angle, and I will  
18 offer the same criticism to the proposals contained in  
19 the brief as has been enunciated in regard to the  
20 proposals contained in the brief of the Shipping  
21 Federation of Canada by counsel for the pilots.

22 Referring to the proposal of the pilots, I  
23 will say that the more we change, the more we are the  
24 same, and by this I suggest that under this proposal  
25 the administration of the pilotage services is not,  
26 in fact, removed from the political sphere which we  
27 have criticized before this Commission, both in our  
28 brief and in the argument I have presented. I say  
29 this because in the recommendations made, we find that  
30 the Minister of Transport can still revise the decision





1 of the Commissioner in the following field: In matters  
2 involving pilotage tariff.

3 In other words, I foresee exactly the same  
4 situation developing that has developed during the  
5 course of the last few years. A proposal for the  
6 revision of the tariff is submitted, it is not accepted  
7 by either the users in the case of the proposal by the  
8 pilots, or vice versa, by the pilots in the case of a  
9 proposal by the users. And then, after meetings with  
10 the departmental authorities - in this case it would be  
11 the Commissioner - if the parties are not satisfied,  
12 again we would see descent upon the Minister, and we  
13 have seen this in respect of minor revisions in the  
14 tariff - a question of allowing \$5.00 instead of \$3.00  
15 for expenses, detention at the St. Lambert Lock, and  
16 a series of a similar type of action being taken as  
17 related in the history of the evidence that preceded  
18 the appointment of this Commission. Again, in matters  
19 of exemption, there would be similar process involving  
20 a decision by the Commissioner, a revision by the  
21 Minister, and so forth.

22 Finally, and we think this is very important  
23 from the point of view of an effective businesslike  
24 administration of the services, we see that in cases  
25 of changes in the limits of the district or establish-  
26 ment of a new district, we have to follow a process  
27 that involves at the higher level three stages:  
28 Approval by the Commissioner, revision and approval,  
29 or approval by the Minister, and then, finally,  
30 approval in Parliament. Three stages at which pressures







1 can be brought to bear, with the result that eventually  
2 you would have considerable delay not to speak of other  
3 things. It may take years to change the limits of a  
4 district under this process, and the change may never  
5 come about.

6 We also criticize the proposals of the St.  
7 Lawrence Federation of Pilots in respect of the giving  
8 to the Corporation of each district a complete and  
9 exclusive control of the administration of pilotage  
10 subject, of course, to the supervision of the higher  
11 authorities because we feel that the supervisory  
12 powers given will not be sufficient to curb the almost  
13 unlimited powers of the corporation in this sphere.  
14 For instance, the Commissioner would have no juris-  
15 diction over matters of a purely internal nature - or  
16 so they are called - including the distribution of the  
17 pool earnings if the system is to remain in effect, or  
18 even the auditing of these pools.

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/rps

1 Again I approach this with a biased  
2 mind, and in view of the experience in the past of  
3 the pressures that have been brought to bear on the  
4 political side, I foresee that the corporations can  
5 become monsters. Again I apologize . . .

6 A VOICE: A Frankenstein!

7 MR. BRISSET: Yes; I was looking for  
8 that word -- because of the almost unlimited power  
9 that they exercise and the effect that the unscrupulous  
10 exercise of these powers can have on the Canadian  
11 economy. I do not say that this will happen, but  
12 the only point I am making is that the seeds are  
13 there in the system.

14 My lord and gentlemen, in the proposed  
15 structure advocated by the Federation of St. Lawrence  
16 Pilots, there is also another element that gives  
17 us considerable concern, and it is the fact that  
18 the cost of the administration of the service will  
19 be charged to the users; and what gives us concern  
20 is that there will be no tariff in connection with  
21 those costs. We know from past experience the diffic-  
22 ulties we have had in matter of tariff, and now we  
23 will find that the pilots will have two tariffs to  
24 juggle with instead of one. True, they tell us that  
25 this will be under the scrutiny of the Authority,  
26 budgets or estimates will be prepared, but the  
27 strong possibility is still there that we will be  
28 faced with interminable negotiations over two  
29 tariffs instead of one.

30 There are many specific technical recommend-





1 ations contained in the brief of the pilots, some  
2 of which are excellent. The only thing I would like  
3 to say is that these recommendations have had to  
4 do with problems that affect pilotage, I realize,  
5 but that are not of the domain of the pilots them-  
6 selves to settle but the domain of the Pilotage  
7 Authority. If the recommendations deal with problems  
8 or technical matters of general application, they  
9 should be dealt with by the central board. I do  
10 not want to go into details, but I have noted for  
11 you Recommendations 32, 33, 34, 35, 36 and 37.  
12 They could be dealt with by the local Pilotage  
13 Authority if they are purely of local application;  
14 and I refer, in particular, to Recommendations 31,  
15 41, 44, 51, 52, 53 and 64, 54 and 65, and 57 and 71.  
16 I stop here because in the last which I have listed  
17 we are dealing with linesmen and wheelmen in the  
18 canals, or the Seaway. This, I say, is a problem for  
19 the Seaway Authority themselves to deal with and  
20 settle, taking into account the efficiency of the  
21 service and the ships. The problem is not only  
22 technical, it is also financial -- economic.

23           There may be merit, for instance, in  
24 a system under which a ship could be provided with a  
25 wheelman if the master feels the need, if it is  
26 a permissive system; what we would be opposed to  
27 would be a compulsory system.

28           I come to my concluding remarks.  
29 Speaking for myself and my principals I can say that  
30 our work before this Commission is finished. Looking





1 back over the last two years I cannot but express  
2 admiration and appreciation for the work done by  
3 this Commission, for its patience; its understanding;  
4 its encouragement, and we want to thank the  
5 members of the Commission for this.

6 I can assure the Commission that we  
7 have done our best -- perhaps we could have done  
8 better -- and our hopes for the future rest in the  
9 hands of the Commission. I think I can say this  
10 not only for ourselves but also for the pilots.

11 Speaking of the pilots, and thinking  
12 of what my learned friend has said over the last  
13 two years, I have also come to know them better and  
14 to respect them as individuals and as very important  
15 cogs in an industry to which I am quite close.

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It is possible that the Commission may require from the Federation additional information or clarification, and I want to ask the Commission to feel quite free to call on us at any time.

All we can offer the Commission at this stage is our moral support in the face of the task ahead of them.

THE CHAIRMAN: With respect to your last remark, you may feel at times we may even be impertinent, but that is not so. We are going to write a lot of people asking for further information and we wish you to think that we do not want additional information to criticize anybody, but just to find out exactly the facts of the system, and then to try and find the source of the difficulty, or what is wrong in the system.

We do not want to criticize. We just want to find the facts. Therefore, we are going to write some questions that you may not like at times, but mind you, what we have in mind is not criticism or putting nasty remarks in our Report. That is not the objective.

That has not been the character of our Commission so far, and it is not our intention that it be. It is just to find out what is the situation exactly, and why and where it should be changed and if changed, that we draw up the right changes. Do you have anything else?

MR. BRISSET: No, my lord.

THE CHAIRMAN: You have told us about





1 the fullness, the thoroughness and complete character  
2 of our investigation. That was, of course, our  
3 mandate, but it was also due to the full co-operation  
4 we have received from all the parties concerned in  
5 entering into all of these discussions, and this  
6 evidence was brought to us at great cost and that we  
7 know, and that we appreciate, and we do hope that all  
8 these efforts of yours will be rewarded by a report  
9 that will be up to your expectations.

10 We thank both counsel very much for  
11 their addresses. They were very thorough, and all  
12 points were touched on. This is going to help us  
13 very, very much.

14 I am saying this now at this opportunity,  
15 because some of you will not be here next week and,  
16 for some of you, this is the last time we will see  
17 you, officially.

18 It has been a very rewarding experience  
19 for us to have been with you, and it is not without  
20 some regret that we see that this phase of the  
21 investigation is finished. We really enjoyed being  
22 with you and living with you for the past two years.

23 Now, that is, of course, only one  
24 phase of our mandate that is finished, and I shudder  
25 to think that it is not the biggest one that is  
26 finished. The task ahead is really something which  
27 you realize, when you start to tackle it. You find  
28 how deep, how wide, how great it is; but with the  
29 help we have, and with the help you have given us,  
30 you have eased this task for us, and we hope -- and you





1 may be assured -- that we will do our utmost to bring  
2 a report out as soon as possible, but we should not  
3 be in too great haste and give an incomplete or half-  
4 thought-out Report.

5 Should we feel that a longer time is  
6 necessary, we will take it, because what we want to  
7 do is to give a Report, a complete Report, and  
8 something that is going to help everybody, not just  
9 for a few days or a few weeks at this time, because  
10 in a few years time all that will mean nothing.  
11 What is going to count is, what good will the Report  
12 be, and so we know that you trust us. We will do our  
13 best to render a report as soon as possible, but we'll  
14 do everything else to make the Report complete and  
15 thorough.

16 COMMISSIONER SMITH: Your lordship,  
17 I associate myself wholeheartedly with the sentiments  
18 you have so well expressed, and while I think it is  
19 a good thing to get the job done, there are some  
20 disappointments in severing associations that have  
21 been so pleasant over the years.

22 It may seem somewhat anti-climatic for  
23 me to open up a few little points and get the opinion  
24 of Mr. Brisset, but I do feel, with your lordship's  
25 permission and your patience, I would like to ask  
26 just a few questions. I will link them up together,  
27 in order to save time. I won't be too long.

28 THE CHAIRMAN: That is all right.

29 COMMISSIONER SMITH: First of all,  
30 I should say what a deep pleasure it was for me to







1 listen to the very lucid exposition of the Federation's  
2 brief which was presented in such a complete manner  
3 as to form, as to substance, and as to style. It was  
4 a very great pleasure to have that privilege.

5 Now, the questions that I wanted to  
6 raise are: number one, on the matter of the composition  
7 of the personnel of the proposed Pilotage Commission.

8 I am not so completely positive as  
9 to the exact qualifications mentioned by you, Mr.  
3 10 Brisset, but as I understood it, the chairman or  
11 president, whatever you want to call him, was to be  
12 a man, of course, of high integrity, but also some-  
13 one with complete knowledge of shipping or allied  
14 occupations.

15 I am wondering if there would be  
16 anything wrong -- that is not the way to say it --  
17 I am wondering if there would be anything of an  
18 unsatisfactory nature to have as head of the Board,  
19 or Commission, or whatever you want to call it;  
20 somebody completely detached. It might be a lawyer;  
21 it might be an engineer; it might be a chartered  
22 accountant; a notary public; a college professor;  
23 or some other person of integrity with a lot of  
24 ability, with a brain that is fully-developed and  
25 matured and with a mind open enough to receive any  
26 reasonable and logical suggestions.

27 Then, the other two members being  
28 technical people, one from the field of shipping --  
29 and there are so many -- and we have known them,  
30 and heard them on the witness stand and enjoyed them,





1 and can appreciate their words; and also a represent-  
2 ative from the pilots' organization. We have certainly  
3 known how capable they are to fulfil functions of  
4 that character.

5 Now, I know it will be said: "Well,  
6 you would have split decisions. You would have  
7 decisions one to two and two to one, and you would  
8 never have an unanimous approval of questions."

9 I do not think that is so. It has been  
10 my observation in life that when you promote men of  
11 integrity to a high position of responsibility, he  
12 builds himself up to his position, to his obligations  
13 and to his responsibilities. In other words, his  
14 prejudices become his conscience, and I have known  
15 cases where they will lean over backwards, almost,  
16 to go against their former inclinations.

17 I would like to have your opinion on  
18 those questions. Also, on this set-up, as to the  
19 remuneration should be fair and just, and perhaps  
20 lean on the side of generosity more than anything  
21 else. The chairman or president may even be paid  
22 a salary commensurate with the salary paid to the  
23 Superior Court of the Province of Quebec, or any other  
24 Province, and the other two members perhaps \$20,000  
25 a year, and with very long terms; say 12, 11 and 10-  
26 year terms, staggered, so there would be continuity  
27 of policy and administrative operation.

28 I would like to have your opinion on  
29 that.

30 There is one further point with respect





1 to the question of local committees and advisory  
2 committees: I am not trying to be personal in this  
3 respect, but I am talking about the things I know  
4 best, and I don't know too much about them, either.

5 It is a long while since I have been  
6 connected with the National Harbours Board, but  
7 before the National Harbours Board was created, the  
8 Government-of-the-day engaged the world-renowned  
9 port engineer expert, as to port engineering, port  
10 planning and port administration, Sir Alexander Gibb,  
11 who is dead now. He made a report to the Govern-  
12 ment-of-the-day, which report in the main, with  
13 some exceptions -- one of which I will speak about  
14 in a moment -- and was the cornerstone of the National  
15 Harbours Board set-up.

16 Among the recommendations that he  
17 made, which was not accepted, was for a local  
18 advisory committee to advise the port manager in  
19 these ports, and there were several of them. There  
20 was tremendous pressure. I don't mean political  
21 pressure, unless you can call municipal pressure  
22 political pressure. It was mostly from the municipal-  
23 ities, from the Boards of Trade, from the shipping  
24 industry and from the stevedores. I don't know  
25 if it was so much from the pilotage, but it was  
26 pretty well all interests concerned with waterfront  
27 operations and harbour managements.

28 In his recommendations, Sir Alexander  
29 Gibb recommended that these different organizations  
30 be represented; the municipality; the Board of Trade;







1 the stevedores, and those I have mentioned.

2 Well, the pressure became, at times,  
3 almost intolerable, but it was never put into effect.  
4 Mind you, this local advisory committee was somewhat  
5 of a statutory set-up. It would be incorporated in  
6 the Act and in the general Authority in the administra-  
7 tion of the harbour.

8 The pressure was resisted because the  
9 port managers just simply would not stand for it.  
10 In fact, we would have lost some of our very able  
11 men that we had, on the grounds they were not going  
12 to be told how to do a job that they were appointed  
13 to do.

14 They were willing to accept advice  
15 from the Board of Trade, and the other shipping  
16 interests and the stevedoring and pilots and other  
17 interests, but to have some sort of statutory set-up  
18 with regard to a pilotage committee forcing their  
19 opinions, which would not always be well-thought-out,  
20 was just something that they were not going to stand  
21 for.

22 Now, on one of the exhibits, it is  
23 mentioned at the bottom of page two; Exhibit 945:

24 "It is further indicated that the  
25 Board of Pilotage Commissioners for  
26 Canada will come under the juris-  
27 diction of the Minister of Transport,  
28 or the jurisdiction of his ministry,  
29 just as the National Harbours Board  
30 does come under the ministry's jurisdiction."





1                   On that question of jurisdiction: in  
2   The National Harbours Board Act, the Board, as set  
3   up, was put under the direction of a Minister named  
4   by the Governor-in-Council.

5                   There was never, in my time, settled,  
6   the exact shade of meaning as to the meaning of  
7   "under the direction," and the reason was that, in  
8   the context in which it was used, it was watered down  
9   in other Sections of the Act that gave the Board  
10   power to pretty well operate the organization with  
11   all the autonomy -- almost complete autonomy.

12                  It is true that we had to get the  
13   authorization of the Governor-in-Council to buy  
14   and sell property, and we had to submit some bylaws  
15   for approval and other things, but in a general  
16   way, so far as the operation was concerned, we were  
17   not restricted or interfered with.

18                  It went pretty well as a business  
19   operation, and while we were under the direction of  
20   the Minister- and I served under five of them in  
21   my time there - the interference and the direction  
22   could be reduced to, I think there were only two  
23   occasions in my time, we got directions from the  
24   Minister to do something that we thought was not  
25   in the best interests of the harbour.

26                  Now, there is one other item and I  
27   am through. I am sorry to have kept you here.  
28   Yesterday you made reference, Mr. Brisset, to excessive  
29   pilotage charges, and I think you mentioned two  
30   instances: one was at the St. Lambert Lock, I believe,





1 and the other was elsewhere.

2 Correct me if I am misstating you,  
3 but you intimated, as I recall, that the amount of  
4 dues paid by the shipping company at the St. Lambert  
5 Lock incident amounted to \$205. Was that correct?

6 MR. BRISSET: Yes.

7 COMMISSIONER SMITH: I looked up the  
8 exhibit, and I find that -- I am not any too sure  
9 about this, because I find it a little difficult  
10 to understand the complete significance of the  
11 source form, but there was a ship there that was  
12 assessed and paid the amount that you stated, but  
13 that the lock, in some of its elements, was being  
14 repaired, and the master of the ship who was ahead  
15 of the other one had neglected to inform the pilot,  
16 and cancelled the assignment, and as a result,  
17 there was an accumulation of these dues which in  
18 the end amounted, you said, to \$205.

19 Now, I don't know if I have made that  
20 clear or not, but I would like to get some clarity  
21 on that point: the name of the ship was the Eva  
22 Tholstrup I think those are all the questions  
23 I have to put to you, Mr. Brisset.

24 MR. BRISSET: May I, Mr. Smith, deal  
25 with them in the reverse order that you have followed?

26 COMMISSIONER SMITH: Certainly.

27 MR. BRISSET: And speak of the Eva  
28 Tholstrup, first. The point I wanted to make was not  
29 that the pilotage costs there charged were, in them-  
30 selves, excessive. My point was that, first: they were







1 not necessary and they were, in a sense, excessive  
2 in relation to the pilotage actually contemplated,  
3 and I will explain this in this manner.

4 This shipment was moving from berth 101,  
5 a bunkering berth in Montreal East to the Seaway.  
6 Normally, if everything had been clear, the pilot  
7 would have taken this ship from berth 101 into lock  
8 No. 1, and the charge would have been \$32. That is  
9 all.

10 Now, because of this dispute between  
11 the Cornwall pilot and the Harbour pilot which  
12 resulted in a decision of the Authority that, even  
13 if the ship had to tie at the lock wall, it was  
14 going into No. 1 lock, it was still the Harbour  
15 pilot that had to take her in.

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1 We have this result that the harbour pilot,  
2 because the lock was not clear -- whatever might be  
3 the reason; damage or a ship in there, the harbour  
4 pilot stopped the ship at the lock wall. From the  
5 moment he did that, and this is new under this new  
6 decision, from the moment he did that, he became  
7 entitled to another moveage cost of \$20.00 to take her  
8 in number one.

9 Furthermore, since he had to wait to  
10 perform this last leg of this voyage into lock number  
11 one, since he had to wait at the lock wall, he remained  
12 on the ship for twenty hours, and we had to pay dues  
13 of \$100.00.

14 COMMISSIONER SMITH: Excuse me for  
15 interrupting you here. If the notice of the cancella-  
16 tion of the assignment had been given by the Master  
17 to the pilot, would that have eliminated this excessive  
18 charge?

19 MR. BRISSET: Yes, I am told it could.

20 COMMISSIONER SMITH: Well then, just to  
21 follow that along, that would be the responsibility of  
22 the Master then, the cause of the excessive increase  
23 in the pilotage collected from the ship?

24 MR. BRISSET: Yes, but if he had dismissed the  
25 pilot then he would have had to call for another  
26 harbour pilot.

27 COMMISSIONER SMITH: Yes.

28 MR. BRISSET: And we would start again.

29 COMMISSIONER SMITH: It would not take him  
30 twenty hours.





1 MR. BRISSET:No, but still nevertheless, to  
2 go on with this, we had the Seaway pilot who was also  
3 waiting for that ship in the Seaway Lock, at Seaway  
4 Lock Number 1, who was detained there and in respect  
5 of which detention we had to pay \$50.00. So that you  
6 have a situation where you have a ship here, a pilot  
7 on board, intending to go into Lock 1, and a few  
8 hundred feet further up you have another pilot waiting  
9 here to take that ship in.

10 Now, under the old procedure, this would  
11 never have happened, because the assignment of the  
12 harbour pilot, if the lock was not free, would have  
13 terminated at the lock wall. He would have had to  
14 get off - he did not need an order of the Master to  
15 get off. His assignment was terminated, and the  
16 Seaway Pilot would then have taken that ship into  
17 Lock No. 1.

18 Now, the example I have quoted is an extreme  
19 one, I grant you. It just shows you from this absurd  
20 situation you develop, whether it is because the  
21 Master failed to dismiss the pilot or not, you can  
22 develop into more absurd results. But, what has  
23 happened quite often is that there has been only an  
24 hour or so of detention at the lock wall and an hour  
25 at the Seaway wall or Seaway Lock, and we have a number  
26 of examples taken out of only one agency showing that  
27 you pay detention to two pilots who are five hundred  
28 feet apart for no practical reason businesswise.

29 COMMISSIONER SMITH: Thank you.

30 MR. BRISSET:That is the point I wanted to







1 develop. Your next point, Mr. Smith, was about the  
2 role of the Minister, and perhaps Exhibit 945 to which  
3 you have referred did not make what we have in mind  
4 clear enough.

5 We certainly foresee for the Minister no  
6 more important role in the direction of the Board of  
7 Pilotage Commissioners than you have told us about in  
8 relation to the National Harbours Board.

9 We see two roles for the Minister. Let us  
10 assume that the legislation has to be amended for one  
11 reason or another. The Minister who will present the  
12 bill amending the legislation will have to be a  
13 Minister of the Crown, and the logical one will be the  
14 Minister of Transport. The Minister of Transport, I  
15 believe, is the one who introduces amendments in the  
16 National Harbours Board Act.

17 COMMISSIONER SMITH: Yes.

18 MR. BRISSET: The same thing. The Minister's  
19 other role would be to present the estimates to  
20 Parliament required to maintain the Board of Pilotage  
21 Commissioners just as I believe the Minister of  
22 Transport does present the estimates of the National  
23 Harbours Board. These would be the two functions.

24 COMMISSIONER SMITH: You said you would not  
25 want any more authority over the Board at Ottawa.  
26 Would you think that a lesser amount of authority or  
27 control or jurisdiction would be advisable over the  
28 suggested Pilotage Board?

29 MR. BRISSET: Yes, less than what the pilots  
30 suggest. We feel, frankly, that the Minister of





1 Transport has such responsibilities and they increase  
2 with times, that he should not be saddled with the  
3 problems of administration of pilotage that have landed  
4 on his desk or in his lap over the last few years. It  
5 can't be done. It is humanly impossible. That explains  
6 to a great extent and probably fully the vacillation  
7 in policies. How can you expect the Minister to become  
8 familiar with these details? It is impossible.

9 COMMISSIONER SMITH: What about giving the  
10 suggested Board almost complete autonomy?

11 MR. BRISSET: That is what we have in mind.  
12 I am sorry if I did not express it clearly.

13 COMMISSIONER SMITH: The way it is expressed  
14 I did not take it that way.

15 MR. BRISSET: I realize that. Your question  
16 was very well taken. I had not noticed that this little  
17 paragraph was not clearly indicating what we intended.  
18 We intend full autonomy.

19 Your third question had to do with the  
20 advisers to the local committee. I am not sure whether  
21 I understood that fully, but I want to remind you, sir,  
22 that in the case where the local pilotage authority is  
23 the National Harbours Board or the Seaway Authority,  
24 we do not advocate any advisers to them. We feel that  
25 they have the required personnel and staff to conduct  
26 the administration without outside assistance.

27 COMMISSIONER SMITH: Well, perhaps I mis-  
28 understood your statement in this connection, but I  
29 thought what you were proposing was a local advisory  
30 committee made up of various elements on the water-







1 front and elsewhere as advisory organizations to the  
2 Pilotage Commissioners on pilotage matters that they  
3 were organized to deal with. Is that the essence of  
4 it?

5 MR. BRISSET: Let us review this. We foresee  
6 the Central Board of Commissioners. To the Central  
7 Board of Commissioners, we foresee an advisory board  
8 to be consulted if they so wish, made up of representa-  
9 tives of various departments.

10 COMMISSIONER SMITH: Would that be a  
11 statutory set-up, or would it be something like the  
12 Boards of Trade, advisory committees to advise  
13 different government set-ups, in almost everything you  
14 can think of?

15 MR. BRISSET: We do not even foresee that such  
16 an advisory committee would necessarily have to be  
17 created by legislation. It is simply a recommendation  
18 that if the Board of Central Commissioners feel that  
19 they require advice, an advisory committee along the  
20 lines we suggest would be a proper body to constitute.  
21 My mind is open on this subject whether it should be -

22 COMMISSIONER SMITH: Just in connection with  
23 this, and it may not seem very serious on the surface,  
24 but in connection with this very matter, the advisory  
25 local committees, in Halifax for instance, where the  
26 Board of Governors - the local advisory committees -  
27 the people there felt so strongly about it that they  
28 went to the Provincial Legislature and they had  
29 appointed, I think, what they call a Harbour Commission.  
30 It, of course, covered all the various areas of shipping







1 and everything connected with the waterfront, but they  
2 wanted to get something of a high official character  
3 so that they would have some particularly strong  
4 status in order to impress the Harbour Board and the  
5 others who were concerned.

6 MR. BRISSET: Well, I repeat that insofar as  
7 the Central Board of Commissioners, the Pilotage  
8 Commissioners is concerned, we approach the formation  
9 of an advisory committee to that Board with an open  
10 mind. Whether it should be made compulsory by  
11 legislation or not, I am not going to offer a formal  
12 recommendation on this, although I see advantage  
13 because in our composition of the Central Board we  
14 have candidates or members that may not have technical  
15 experience in relation to aids to navigation, for  
16 instance, navigation in the sense of the technical  
17 aspect of it.

18 We also include, if I remember well, the  
19 Department of Trade and Commerce, who undoubtedly  
20 could offer to the Commissioners invaluable advice  
21 in the field of the international import and export  
22 commerce of Canada.

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x/JC/rps

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1 MR. BRISSET: Perhaps. I will give  
2 another example: the other member of the advisory  
3 board that we recommended would be an officer of the  
4 National Harbours Board. I am speaking of the central  
5 headquarters of the board, now.

6 You realize, Mr. Smith, that Canadian  
7 ports are, for instance, in constant competition with  
8 American ports, and I am aware that the National  
9 Harbours Board follows this problem very closely,  
10 even to the point where they send representatives  
11 to call on exporters in, let us say, the Great Lakes  
12 regions. They realize that Canadian goods are  
13 being shipped overseas through U.S. Maritime ports;  
14 to determine whether it is possible that Canadian  
15 ports could compete in respect of this particular  
16 traffic.

17 This is something which is just normal  
18 competition. The National Harbours Board would have  
19 much greater knowledge of what is going on than the  
20 Pilotage Commissioner, and the advice he may receive  
21 from the Board from an economic point of view may  
22 assist him in decisions that will affect the ship's  
23 intending to use our own ports to move that partic-  
24 ular traffic.

25 That is a thought we had in mind.  
26 As regards the local committees or local Pilotage  
27 Authorities, I think that expression is perhaps  
28 better. I have indicated that if the National  
29 Harbours Board or the Seaway Authority are the  
30 Authority, there is no need for advisory committees,





1 but if you have in a district a Superintendent of  
2 Pilotage all by himself in charge of the administration,  
3 we want to give him the assistance of advisers.

4 For instance, I would point out to  
5 you -- so that you will see how our thoughts are  
6 running -- we have recommended in certain cases  
7 the marine agent. Why? Because he is in charge of  
8 the maintenance, and at times there has not always  
9 been the co-ordination or the desired liaison between  
10 the Pilotage Authority on the one hand and these  
11 other departments on the other hand; even though,  
12 for the pilotage act such close liaison is certainly  
13 one to be recommended.

14 As to the Constitution of the Central  
15 Board of Pilotage Commissioners: you have asked  
16 why should we need a businessman having had shipping  
17 experience and, of course, integrity and high qualities.  
18 I do not want to dwell too long on this. Why,  
19 instead, there could not be a man or a lawyer at the  
20 head of this Board?

21 COMMISSIONER SMITH: I was not confining  
22 it to a lawyer, at all.

23 MR. BRISSET: Or a notary. I think  
24 you mentioned a number of other persons.

25 That has been very thoroughly discussed  
26 in meetings, and it was felt that -- take a lawyer,  
27 for instance: you may have a lawyer of outstanding  
28 ability who has had no actual contact with the  
29 industry of transportation, and he may be at a dis-  
30 advantage, while we felt that a businessman -- and we







1 insisted mainly on this -- a business executive,  
2 a man of proven business executive ability who would  
3 require, of course, full imagination and the ability  
4 to make rapid decisions and whatnot. We feel that  
5 such a man would fit the job that we contemplate,  
6 and that he would have, also, a legal mind -- that  
7 is our second recommendation -- to assist him in  
8 respect of decisions he might take, or actions he  
9 might take which could involve legal problems.

10 The recommendation for the third  
11 members was that he be a chartered accountant, because  
12 there will be, I imagine, actuarial work to be done  
13 and work in the domain of a chartered accountant.

14 Now, you have asked whether we should  
15 add a former pilot or one who has had experience  
16 with pilotage on this Board?

17 In this regard, I want to say that  
18 we -- in spite of the words used in our recommendation,  
19 we have tried to make this Board as far away as  
20 possible from contact with either the shipping industry  
21 or the pilotage itself.

22 Whether we have succeeded, I don't know  
23 but I want to stress this principle that it is

24 a business executive that we look for  
25 head of the Commission.

26 As for the remuneration, I entirely  
27 agree with you, Mr. Smith, that that should be, as  
28 the job would be extremely important, truly remun-  
29 erated. I cannot disagree at all with the figures  
30 you have mentioned.





1 THE CHAIRMAN: Thank you.

2 Well, it appears in my previous address  
3 I was a little hasty. I forgot to ask Mr. Lalonde  
4 whether he has any more remarks to make after having  
5 heard the pleading of Mr. Brisset.

6 MR. LALONDE: My lord, whatever remarks  
7 I make will be very short, and I thought it would be  
8 preferable to wait for the addresses of Mr. Maloney  
9 also, since it is connected with the same problem and  
10 maybe after, something from the Department of Trans-  
11 port. May I wait till the end of that? I will be  
12 in Ottawa next week, anyway.

13 THE CHAIRMAN: Yes.

14 Any questions?

15 COMMISSIONER RENWICK: No, my lord.

16 THE CHAIRMAN: We will now adjourn  
17 until Monday morning at ten o'clock at the same place.

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19 --- Whereupon the hearing adjourned until ten o'clock  
20 a.m., Monday, the 11th day of January, 1965.

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# ROYAL COMMISSION

ON

## PILOTAGE

### HEARINGS

HELD AT

OTTAWA  
Ontario

VOLUME No.:

160

DATE:

11 January, 1965

OFFICIAL REPORTERS  
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ROYAL COMMISSION ON MARINE PILOTAGE

Proceedings of the hearing held  
within the Supreme Court Building,  
Wellington Street, Ottawa, Ontario,  
on Monday, the 11th day of January,  
1965.

THE COMMISSION:

The Honourable Mr. Justice Bernier -- Chairman  
Mr. Robert K. Smith -- Member  
Mr. Harold A. Renwick -- Member  
Mr. Gilbert Nadeau -- Secretary

COMMISSION COUNSEL:

Mr. Maurice Jacques

PRESENT:

Mr. J. Brisset, Q.C. -- for the Shipping Federation of Canada  
Mr. Marc Lalonde -- for the Federation of St. Lawrence River Pilots; Corporation of the Lower St. Lawrence Pilots; Corporation of the Montreal Harbour Pilots; Corporation of the Mid-St. Lawrence Pilots; Corporation of the St. Lawrence River and Seaway Pilots; Corporation of the Upper St. Lawrence Pilots  
Mr. R. Langlois -- for the Canadian Merchant Service Guild  
Mr. J. J. Mahoney -- for the Dominion Marine Association  
Mr. R. Macgillivray -- for the Department of Transport





ANGUS, STONEHOUSE & CO. LTD.  
TORONTO, ONTARIO

1	Mr. H. P. Legg	--	for Crown Zellerbach
2			Building Materials
3	Mr. J. I. Bird	--	for the Vancouver
4			Chamber of Shipping
5	Mr. W. T. Hunter	--	for the New Westminster
6	Mr. C. S. Allin	--	for the Canadian
7			Shipowners Association
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/IW/rps

1 --- On commencing at 10:00 a.m.

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MR. LEGG: Good morning, my lord and gentlemen. I wish to thank your lordship and Members of the Commission for this opportunity to address you on behalf of Crown Zellerbach Building Materials Limited.

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Before I commence my submission, I would like also to thank Mr. John Bird and Mr. Hunter, both of whom have been kind enough to agree that I should precede them because of a commitment I have in Vancouver tomorrow.

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I would also like to say that I am very pleased to be enjoying the relatively balmy weather of Quebec and Ontario, and I thought that it might be a frustration which would not have been enjoyed by speakers on the West Coast when I saw the snow this morning. However, the frustration which we have on the Pacific Coast, apart from weather, as your lordship and Members of the Commission will know, stems not only from weather but from a bridge across the Fraser River, and it is that subject upon which I wish to address the Members of the Commission this morning.

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My submission is a very simple one, and I hope its simplicity doesn't detract from its excellence. I submit that the New Westminster Railway Bridge, which is also known as the old Fraser River Bridge, is a serious pilotage problem on the Fraser River, and that this Commission should recommend







1 conversion of the bridge from a swing system to a  
2 lift-operated bridge.

3 THE CHAIRMAN: Or a new bridge at  
4 another location?

5 MR. LEGG: There was no evidence presented  
6 on this problem, although I appreciate that it was  
7 discussed by certain members of the Civil Service  
8 who gave evidence last September before the Commission,  
9 who hinted that such a matter was under study; although  
10 I will have something to say on the subject later.

11 However, I would like to remind the  
12 Members of the Commission that this bridge, if I may  
13 say so, is an historical frustration, remembering  
14 that it was built in 1903 before the Panama Canal,  
15 which was built in 1914; so that it was within 10 years  
16 -- 15 years or so -- of the completion of the Canad-  
17 ian Pacific Railway, and obviously built at a time  
18 when the railway was a great influence upon the  
19 economy of Canada, and particularly Western Canada.

20 Its historical frustration is seen  
21 also in Exhibit 164, which is the first piece of evid-  
22 ence I wish to refer to, and I would refer, partic-  
23 ularly, to page 3, paragraph 13, lines 11 to 19.  
24 I don't have a copy of the exact exhibit in front of  
25 me . . .

26 THE CHAIRMAN: It will be here in a  
27 minute. These exhibits were left in our office, but  
28 we have asked for them and they will be here in a few  
29 minutes.

30 MR. LEGG: It is, in part, referred to





1 in Exhibit 165, the Crown Zellerbach brief, and as  
2 I told Mr. Nadeau before the commencement I would  
3 have no difficulty in referring to the text, and the  
4 particular text I refer to is paragraph 13 of what  
5 are, in fact, the recommendations of the then Chief  
6 Engineer, and he said, at lines 11 to 19, in part:

7 "The movable span of the existing  
8 bridge should be taken out and it  
9 should be replaced by a vertical lift  
10 span with a clear horizontal opening  
11 not less than 250 feet and a clear  
12 height of 145 feet above freshet  
13 level."

14 I am here to renew this recommendation  
15 to your lordship and to the Members of the Commission  
16 this morning.

17 I submit that it is trite in the  
18 evidence that the narrow opening of the bridge is  
19 established to be a hazard to shipping in the view  
20 of all persons experienced in navigating through  
21 it. There are several references I would like to  
22 give you. I do not intend to read them all, but I  
23 will give you a few. The first is Captain Kavanagh  
24 who, you will recall, is the port manager of the  
25 New Westminster Harbour Commission and, I submit,  
26 a man of very wide experience in this kind of matter.  
27 That is Captain Kavanagh, in Volume 11, at page 1385,  
28 line 24, to page 1386 line 5.

29 The next one I wish to mention is  
30 Captain Speir , a pilot with some experience. My





1 recollection is that he had been piloting on the  
2 Fraser River for six years when he gave his evidence,  
3 and he said, in Volume 11, page 1409 to page 1410 that  
4 he agrees that the bridge is a hazard to navigation.

5 Then there was Captain Gilley, a  
6 pilot of great experience -- and I am glad to see  
7 he is here this morning -- and I would like to read  
8 from his evidence in Volume 12 at page 1552, line  
9 4, to page 1554, line 3. He said:

10 "Q. Just a few questions. Has it  
11 been your experience that in the class  
12 of vessel you have piloted up the  
13 Fraser River there has been an increas-  
14 ing number of bridge-aft vessels in the  
15 last few years?

16 "A. There has been an increasing  
17 number in the last few years coming  
18 into the Port of New Westminster.

19 "Q. And accordingly an increasing  
20 number of bridge-aft ships going up  
21 the Fraser River?

22 "A. Yes.

23 "Q. Were you here yesterday?

24 "A. Yes.

25 "Q. Do you agree with the opinion given  
26 yesterday that if the Fraser River Bridge  
27 was widened, a bridge-aft vessel of,  
28 say, 500 feet could be taken with  
29 safety up the Fraser River?

30 "A. I agree with that.







1 "Q. Has it been your general experience  
2 that because of the narrow entrance of  
3 the Fraser River Bridge you have exper-  
4 ienced difficulties in getting through  
5 and have to wait for proper tide con-  
6 ditions to navigate through the bridge?

7 "A. That is correct.

8 "Q. Can you just say, generally, what  
9 period of time we are talking about?

10 "A. Well, previous to the construction  
11 of the Pattullo Bridge in 1937, when  
12 it was opened, we had no difficulty  
13 in taking ships to the Fraser Mills  
14 on an ebb tide or full tide, or a full  
15 flood, and we found when they set  
16 the first pier in, the north pier, that  
17 it deflected the tide and put it on  
18 to the New Westminster Bridge. We  
19 tried it on several occasions and  
20 there were some very near misses up  
21 there. So we made the recommendation  
22 to our Commissioners that navigation  
23 through that bridge on an ebb tide  
24 or any strong tide should be prohibited.

25 "Q. I wonder if you would tell the  
26 Commission more precisely what I had  
27 in mind in my question. What period  
28 of time do you have to wait?

29 "A. We wait for a lack or ebb tide.

30 "Q. Do you have to wait for an hour or





1 "so?

2 "A. On many occasions we have to wait  
3 for an hour and longer, much longer.

4 "Q. This is what I wanted to get at.  
5 Is this also true of proceeding down-  
6 stream through the bridge?

7 Do you have to wait whichever direction  
8 you are going through the bridge?

9 "A. Yes. We try to wait for the best  
10 of the rise in the tide to take the  
11 sting out of the ebb flow, or we come  
12 down when the tide is flooding.

13 "Q. Would you agree that the period  
14 of waiting would be lessened if the  
15 entrance to the bridge were widened?

16 "A. You mean the removal of the centre  
17 pier?

18 "Q. Yes, or the centre span was removed  
19 and the entrance increased?

20 "A. Yes, I do.

21 "Q. And limitations on going through  
22 because of tide and current conditions  
23 would be removed?

24 "A. There would be no limitations  
25 whatsoever, only on account of draught.

26 I submit that this records very well,  
27 in the words of a very experienced pilot, precisely  
28 what the navigation problem is.

29 I would refer, further, to Captain Draine's  
30 evidence, Volume 14, at page 1860 to page 1862, and to





A2 1 Captain Taylor in Volume 15, page 1916, line 7, to  
2 page 1920. In connection with Captain Taylor's  
3 evidence, I would draw to the recollection of the  
4 Commission Exhibit 165, which is the Crown Zellerbach  
5 brief, and which is referred to in the Crown Zeller-  
6 bach brief as Exhibit 10, where there is illustrated,  
7 and I say very graphically, the procedure of having  
8 to go through this bridge, and I think it supports  
9 in every way the words of Captain Taylor who has  
10 been on board these vessels. But these photographs  
11 illustrate more graphically the difficulty of navig-  
12 ation through this bridge of all types of ships.

13 COMMISSIONER SMITH: Excuse me inter-  
14 rupting you. In addition to what you have stated  
15 there was presented to the Commission an unsolicited  
16 letter from a Captain Korhorner, referring to taking  
17 large ships through the river, and this is what he  
18 says:

19 "In my opinion passage through this  
20 swing span is too dangerous with ships  
21 of this type."

22 He said that the reasons were many,  
23 but the restricted vision from the bridge-aft was  
24 of great concern.

25 "We must also remember that passage  
26 through the span must be carried out  
27 under half to full power in order to  
28 have full steering power on the rudder.  
29 The smallest misunderstanding between  
30 the pilot, master, mate and quarter-







1 master will have disastrous results.

2 Under the circumstances, also keeping  
3 in mind that coming down river the  
4 ship will be running with the tide and  
5 if the line-up passage is not successful  
6 for the first try there is no returning  
7 or stopping possible."

8 That is according to the evidence that  
9 was given, and this is an unsolicited letter from  
10 this master which I have just mentioned.

11 MR. LEGG: Thank you, Mr. Smith. I  
12 was unfamiliar with that particular letter. My  
13 recollection was that it wasn't filed at the time of  
14 the hearings in New Westminster, and I have not seen  
15 a copy of it; but it certainly bears out further the  
16 hazard that this bridge constitutes.

17 COMMISSIONER SMITH: I had the impression  
18 that there was some evidence given about it.

19 THE CHAIRMAN: Yes.

20 COMMISSIONER SMITH: But I have it in  
21 my notes.

22 MR. LEGG: My recollection, then, is  
23 faulty. My own comment in regard to that might be  
24 this, that since the evidence was given to the  
25 Commission in New Westminster, I have heard of a  
26 bridge-aft vessel -- with a bridge constructed in the  
27 fore part of the vessel -- constructed deliberately  
28 to try to circumvent this hazard. This vessel is  
29 the TIHA, and it was built with this particular  
30 problem in mind. It is of a length of 525 feet, with  
a draught of 26 feet.





4/rps

1 THE CHAIRMAN: Yes, we heard evidence  
2 to the effect that the New Westminster pilots had  
3 suggested to Crown Zellerbach that there be a bridge  
4 amidships, and also that this same information was  
5 given to Robner Company.

6 MR. LEGG: Yes.

7 THE CHAIRMAN: We have written to the  
8 New Westminster Pilotage Authority to find out whether  
9 any ships will now be fitted with such a bridge amid-  
10 ships, and we are awaiting the information.

11 MR. LEGG: This was a special extra  
12 bridge on the fore part of the bridge on a bridge-  
13 aft vessel; a special bridge constructed where the  
14 pilot could have unobstructed visibility. I am  
15 instructed this vessel has actually proceeded to - - - -  
16

17 Further -- and I am now going to  
18 return to my general submission -- it is apparent  
19 on the evidence that the hazard of the bridge to  
20 shipping has been recognized by the Fraser River  
21 pilots in their refusal to pilot bridge-aft vessels  
22 exceeding 375 feet in length through the bridge at  
23 any time, and their constant refusal to pilot  
24 conventional ships through the bridge at night.

25 Captain Spier at page 1406, line 26,  
26 to page 1415, line 14 -- and, of course, in Exhibit  
27 160, which contains a recommendation of the pilots  
28 prepared by the Pilots' Committee and Authority,  
29 concerning the New Westminster railway bridge; this  
30 was filed during the course of Mr. Warren's evidence





1 at Volume 12, page 1432, line 20 to line 26, and I  
2 have already referred to Captain Gillie's evidence.  
3 I will not repeat that, but for reference purposes --  
4 as I understand this argument is being transcribed --  
5 Captain Gillie's evidence is at Volume 12, page 1553,  
6 line 25 to page 1554, line 3.

7 Now is it beyond dispute, gentlemen,  
8 that the hazard of the bridge is particularly danger-  
9 ous to the large marine bridge-aft vessel, and that  
10 this hazard could be greatly alleviated if the  
11 present swing-span pier were removed.

12 In that connection, I refer to Captain  
13 Kavanagh's evidence in Volume 11, page 1386. Reading  
14 from line 16 to page 1387, line 24, he said in answer  
15 to this question:

16 "Q. Can you guide the Commission  
17 further, Captain Kavanagh, by express-  
18 ing any opinion of why effect or what  
19 result would flow from removing the  
20 centre pier, marked on the chart  
21 Exhibit 157, and widening the entrance  
22 to the bridge? What general effect  
23 would that have on the navigational  
24 problems that face a deep-sea vessel  
25 transitting that bridge?

26 "A. Well, sir, it would certainly give  
27 them a greater width between piers for  
28 navigation. I don't think it would  
29 have any material difference on the  
30 method of operating that we have at the







1 present time. I think that we would  
2 still retain the porthand bylaw."

3 The members will recall there was a  
4 reverse rule-of-the-road once upstream of the bridge.

5 "We would still navigate up the port  
6 side of the river in the manner which  
7 is described here.

8 "Q. Well, in your opinion would it  
9 enable vessels of longer dimensions  
10 to proceed through the bridge than is  
11 presently the case?

12 "A. The removal of the centre span?

13 "Q. The removal of the centre span,  
14 and the widening. At the moment my  
15 instructions are that the width of the  
16 entrance on either side of the centre  
17 pier is approximately 170 feet?

18 "A. 171, yes.

19 "Q. Well, if the centre span were  
20 removed and the whole of that width  
21 was available to deep-sea vessels,  
22 would it not follow that vessels of  
23 greater dimensions could navigate  
24 through the bridge?

25 "A. Yes.

26 "Q. In safety?

27 "A. Oh, yes.

28 "Q. There would be a greater margin  
29 of safety anyway?

30 "A. Yes.





1 "Q. Are you familiar with the  
2 trend of shipping to New Westminster  
3 at points beyond New Westminster, having  
4 regard to the type of vessel that is  
5 now used for cargo, and I have in mind  
6 the bridge-aft vessel, or the engine-  
7 aft vessel?

8 "A. Yes, sir."

9 Then Captain Gillie also gave evidence  
10 in Volume 12, page 1550, line 4 to page 1554, line  
11 3 and in Volume 13, page 1576, line 17 to page 1577,  
12 line 23.

13 Captain Taylor also was familiar with  
14 the particular hazard to the marine bridge-aft vessel,  
15 and I refer to his evidence in Volume 15, page 1916,  
16 line 6 to page 1922, line 21.

17 The next point that I make in my  
18 submission is this: I say that the hazard of the  
19 bridge has imposed economic hardship upon manufacturers  
20 upstream of the bridge, and particularly my client,  
21 Crown Zellerbach Building Materials Limited, because  
22 bridge-aft vessels are increasingly used to export  
23 package lumber from this river area. This trend  
24 to bridge-aft vessels has resulted in an increasing  
25 number of scow shipments from the Fraser Mills to  
26 New Westminster and Vancouver.

27 I am going to refer to this evidence  
28 in a little more detail because it is of special  
29 significance to my client's interests.

30 I first refer to Captain Kavanagh's





1 evidence in Volume 11, page 1388, line 10 to page 1389,  
2 line 7. He was asked:

3 "Q. Well, prior to that time I suggest  
4 to you that there had been a trend  
5 to the engine and bridge-aft vessel?

6 "A. Oh, yes.

7 "Q. And this trend became marked three  
8 years ago?

9 "A. I would say about 1955.

10 "Q. And this trend has increased, has  
11 it not, over the last year and a half  
12 to the extent that recently I believe  
13 that a very large vessel arrived in the  
14 Port of Vancouver, a deep-sea, bridge-  
15 aft vessel, and took out I think it  
16 was a record cargo of lumber, and it  
17 was a bridge-aft vessel?

18 "A. Yes, that is right, yes.

19 "Q. And this is the sort of trend that  
20 has developed over the last few years?

21 "A. That is correct.

22 "Q. And is it not also so that these  
23 deep-sea bridge-aft vessels are increas-  
24 ing in length? There is a tendency  
25 to use them more frequently and to  
26 increase their size. Do you agree with  
27 that?

28 "A. It would seem to be that way, my  
29 lord, yes.

30 "Q. Would the removal of the centre pier







1 "from this railway bridge called the  
2 Fraser Bridge, would that in your  
3 opinion assist in the navigation of  
4 bridge-aft vessels through the bridge?

5 "A. I believe so, yes, sir."

6 Captain Gillie's, at Volume 12, page  
7 1552, line 4 to line 20 -- well, I have already  
8 referred to most of that evidence and there seems  
9 to be no point in reading it again. I repeat that  
10 it demonstrates the trend. It demonstrates the  
11 increasing frustration, the prohibition to piloting  
12 vessels of this dimension and construction through  
13 the bridge.

14 Mr. Warren also in his evidence  
15 demonstrated that this was so, and I refer to Volume  
16 12, page 1437, line 12, to page 1438, line 24.

17 Another gentleman familiar with  
18 shipping matters, but not as a sea captain, was Mr.  
19 Middleton. He was, I think, a shipping agent. In  
20 Volume 14 at page 1750, line 14 to line 26 on the  
21 same page, he said this:

22 "Q. Mr. Middleton, is it not a fact  
23 that so far as deep-sea freighters  
24 coming to this coast are concerned  
25 that 90% of engine-aft ships do have  
26 their bridge aft?

27 "A. You could say almost one hundred  
28 per cent.

29 "Q. And this is scarcely a condition  
30 over which local shipping agents have





1 "any control?

2 "A. We have no control over that at  
3 all. I can elaborate upon that to  
4 this extent, that my prediction is  
5 that within a few years this is the  
6 only type of ship which is going to be  
7 built for the bulk trade or the tramp  
8 trade. There are no conventional  
9 ships being built today, to my know-  
10 ledge, for the tramp trade."

11 He also said, at page 1751, line 4  
12 to line 20; he was asked:

13 "Mr. Registrar, have you got Crown  
14 Zellerbach's brief, Exhibit No. 165?  
15 I would like to refer the witness  
16 to a photograph of a bridge-aft  
17 vessel in this brief, Exhibit No. 11  
18 to the brief, my lord. Do all the  
19 Commissioner's have a brief with the  
20 photograph in it?"

21 This is the picture of a bridge-aft  
22 vessel loading package lumber.

23 "Q. I was interested, Mr. Middleton,  
24 in your references to package lumber  
25 and bridge-aft ships, and the trend in  
26 that method of carriage, and I thought  
27 it might be interesting for you to see  
28 a photograph of a bridge-aft vessel,  
29 the SIFNOS, and my instructions are  
30 that that illustrates a method of using,





1 "or loading package lumber on the  
2 vessel. Can you comment on that?

3 "A. Well, that appears to be a typical  
4 photograph of that type of operation  
5 certainly.

6 "Q. Now, the point I wanted to cover  
7 with you is this. Has the trend to the  
8 bridge-aft vessel and the use of package  
9 lumber come about as two parallel trends,  
10 if you like, in the last two or three  
11 years?

12 "A. I would say they came along pretty  
13 much together, because they compromised  
14 each other."

15 I think he meant "complimented," but  
16 they were parallel trends.

17 Now in that connection, evidence was  
18 called by the pilots. One of the pilot's witnesses  
19 also bore out this trend to the use of bridge-aft  
20 vessels. His name was Captain Draney, and his evi-  
21 dence appears in Volume 14 at page 1867, line 27, to  
22 page 1806, line 5.

23 Captain Taylor, who was an employee  
24 of Crown Zellerbach, also gave evidence, and his  
B5 25 evidence in that connection appears in Volume 15,  
26 page 1923, line 5 to line 10.

27 But the witness who gave evidence mainly  
28 in this connection was a man whose responsibility it  
29 was to see to shipping in the Fraser River. I am  
30 referring to Mr. Matheson's evidence on page 1924.







1 I would like to now read fairly exten-  
2 sively from his evidence. You will remember he was  
3 manager of lumber sales with Crown Zellerbach Building  
4 Materials Limited, as appears on page 192<sup>4</sup>, and he  
5 was asked mainly in connection with the statistics  
6 on part of Exhibit 165; and the latest statistics.  
7 he was not asked in connection with the latest statis-  
8 tics because these were filed subsequent to his  
9 evidence, but Crown Zellerbach has filed up to date  
10 statistics of the sailings to Fraser Mills, and the  
11 scow shipments from Fraser Mills to Vancouver and  
12 New Westminster. That Exhibit is 165A, a supplement-  
13 ary exhibit.

14 THE CHAIRMAN: So that would cover  
15 1963 and 1964?

16 MR. LEGG: No, my lord. It covers to  
17 the end of 1963, but I have another exhibit with me  
18 this morning which brings the figure up to date with  
19 1964, and the trend, if I may say so -- the trend  
20 downward for Fraser Mills, because of this bridge  
21 has become even more marked in 1964 than it was in  
22 1963, if that was possible.

23 THE CHAIRMAN: You might also say on  
24 the draught, the water passing the bridge, 24 feet.

25 MR. LEGG: Well, my lord, I submit the  
26 evidence on that point does not support that contention.  
27 Mr. Matheson, I believe, was asked about that, but  
28 he agreed that there might be other factors having  
29 to do with the failure to load deep-sea vessels for  
30 Fraser Mills, but I do not recall that he went that far,





1 although draught obviously would be one of the points.

2 On the other hand -- this is no part  
3 of my general submission, but because your lordship  
4 has raised the question, I will say this: there is  
5 no earthly reason why the dredging upstream of the  
6 Westminster Bridge should not be increased in its  
7 program so as to make it consistent with the dredging  
8 that has been carried on below the railway bridge.  
9 You will recall Mr. Warren of the Department of Public  
10 Works was questioned in New Westminster on that  
11 subject, and he agreed that there was no indication.  
12 He would not go further than that, of course, because  
13 they had not actually dredged to the 29 or 30-foot  
14 depth to which dredging has been carried out in the  
15 area below the bridge. But I say that on the evidence  
16 -- and Mr. Warren's evidence is the evidence I am  
17 referring to -- this was not a large program of dredg-  
18 ing.

19 A large program of dredging was not  
20 required to increase the depth of the channel up-  
21 stream of the Fraser Bridge to the same depth of that  
22 which existed below, because there was no evidence  
23 of silting and, judging from the dredged spoil that  
24 Mr. Warren was familiar with, and he was familiar with  
25 that part of the dredging program which was going on  
26 in that reach of the river ---

27 COMMISSIONER RENWICK: Could I interrupt  
28 very briefly here, Mr. Legg, to indicate that a  
29 correction is necessary? I am referring to the  
30 New Westminster Harbour Commission brief, No. 56.





1 MR. LEGG: Yes.

2 COMMISSIONER RENWICK: Which is in the  
3 submission, paragraph 2, page 1.

4 MR. LEGG: It is their submission.

5 COMMISSIONER RENWICK: Their submission.

6 There is what looks to me like an error, and it is  
7 dealing with that same matter, the economic aspects  
8 of moving the lumber from the Fraser Mills to Vancouver  
9 and New Westminster. It says here -- and it is  
10 referring to Crown Zellerbach's Exhibit No. 165 --  
11 lumber shipped by scow from the mill to New Westminster  
12 and Vancouver had increased from one million eight  
13 hundred and eighty-six thousand million board feet  
14 to thirty-three million, two hundred and thirty-five  
15 thousand million board feet.

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C/JC/rps

1/11

1 That's a pretty big figure even for  
2 British Columbia, 33 million million board feet. I  
3 think the million in letters is redundant and mis-  
4 leading.

5 MR. LEGG: I would say, Mr. Renwick,  
6 that possibly you are more familiar with this than  
7 I am as to what a million board feet of lumber means.

8 COMMISSIONER RENWICK: This gets up  
9 into the trillions.

10 MR. LEGG: I endorse the Chamber of  
11 Commerce spirit of my friend's brief, but do not  
12 attack it.

13 COMMISSIONER SMITH: Just before you  
14 pass on, Mr. Legg, there was evidence given by Captain  
15 Matheson, according to my notes here that the extra  
16 cost for scowing lumber from Fraser Mills to Vancouver  
17 or New Westminster, overloading and shipping it on  
18 ships is between \$2 and \$3.30 per thousand board  
19 feet.

20 MR. LEGG: Yes. He gave that evidence  
21 on page 1930.

22 I am going to submit that that is one  
23 of the economical hardships of Fraser Mills and that  
24 is in the evidence, and when you project that into the  
25 volumes that are handled in Fraser Mills, that can  
26 be demonstrated to be a sizeable economic loss indeed.

27 I submit that the opportunity existed  
28 to scout other courses because there is no question  
29 but that the Department of Public Works and possibly  
30 Transport -- certainly the Department of Public Works --





1 were aware that this restriction was placed on the  
2 bridge, because the New Westminster Harbour Commissioners  
3 drew it to their attention, and this occurred, you will  
4 recall, the restriction took effect, took what I call  
5 devastating effect in 1961 and, peculiar enough --  
6 or not peculiar enough -- but probably completely  
7 enough, this was the same time that the bridge-aft  
8 vessels were becoming involved. When the Department  
9 of Public Works were faced with this, they had an  
10 opportunity, I submit, and they had the evidence from  
11 certain statements which were made, that they felt  
12 charged with the responsibility of looking into the  
13 economic trends of shipping upstream on the Fraser  
14 River.

15 That opportunity has existed to see  
16 that Crown Zellerbach is right in its contention.  
17 I submit, on the evidence that has come before you  
18 gentlemen that the only sensible and possible evi-  
19 dence that has been offered is that the bridge is a  
20 serious economic hazard.

21 It is not preposterous to suggest,  
22 and there is nothing unreasonable that one would expect,  
23 that a restriction of this kind were placed upon the  
24 shipping, it would have economically disastrous  
25 effects for those who wish to depend upon shipping  
26 of this nature.

27 It is not surprising that Crown Zeller-  
28 bach has suffered what I would call a devastating  
29 shock to its economy in Fraser Mills.

30 Now, I did say I was going to refer to





1 Mr. Matheson's evidence at some length, and the first  
2 point that I was going to refer to is the evidence  
3 with regard to the total volume of lumber. In other  
4 words, the question we are looking at is: Has the  
5 general trend of export of lumber from Fraser Mills  
6 gone ahead during the past ten years because it may be  
7 that the market has fallen, but that is not the case.  
8 That is not the case on the evidence and that, again,  
9 is not surprising.

10 The lumber industry in the past ten  
11 years in British Columbia has enjoyed good times,  
12 and particularly during the last few years in common  
13 with the Canadian economy, generally.

14 Mr. Matheson gave evidence on that at  
15 page 1927, lines 14 to 18. He was asked:

16 "Q. Has the total export volume fallen  
17 off in the last ten years, or has it,  
18 generally speaking maintained its  
19 position?

20 "A. No, it has maintained its position  
21 quite well."

22 I will refer to some of the figures  
23 on that point later.

24 Then he was asked:

25 "Q. Going then to the trend from deep-  
26 sea shipments, which have fallen off,  
27 and scow shipments, which have increased,  
28 are you aware of any reason for this  
29 trend?

30 "A. From what I understand, it is because







1 we can't get some of these vessels up  
2 to the mill due to their size, or the  
3 construction of the vessels.

4 "Q. What do you have in mind when you  
5 speak of their size and construction?

6 "A. Well, the aft end type of ship.  
7 I am not familiar with the ships as  
8 such, but this is my understanding."

9 I am reading from page 1928 - at the  
10 bottom of page 1927:

11 "Q. Have you noted any particular  
12 change in the dimensions of vessels  
13 available for the shipment of lumber  
14 during the last two or three years?

15 "A. Yes, our records show that the  
16 length and size of vessels has increased  
17 in the last, over the past few years.  
18 I believe the average length of the  
19 vessels several years ago was slightly  
20 over 400 feet, and last year it was  
21 somewhere in the vicinity of 500 feet,  
22 of the type of vessels that Seaboard  
23 gives us for shipments."

24 You will recall that Crown Zellerbach,  
25 in common with other lumber exporters, export through  
26 a common shipping company, the Seaboard Shipping  
27 Company, and Mr. Forrester, one of the executives  
28 of that company, gave evidence before the Commission.

29 Continuing with Mr. Matheson's evidence:

30 "Q. Have you any further comment on





1 Exhibit 1 before we go to the next  
2 exhibit, Mr. Matheson?"

3 Mr. Matheson was being questioned on  
4 Exhibit 165 where there are some figures.

5 "A. I don't think so, sir.

6 "Q. With regard to Exhibit 2, what is  
7 depicted there?

8 "A. Well, Exhibit 2 is the same inform-  
9 ation in graph form."

10 I am stopping there just to say that  
11 I will come back to the exhibit, generally, and deal  
12 with these figures.

13 I am now turning to deal with his  
14 description of what has occurred: at page 1929 Mr.  
15 Matheson was questioned again at line 22; reading  
16 from there, he was asked:

17 "Q. Well, why do you use scowling  
18 at all to vessels in Vancouver from  
19 Fraser Mills?

20 "A. Well, naturally from our point of  
21 view at Fraser Mills we prefer not  
22 to, because this is a direct added  
23 cost to our operation. However, there  
24 are many reasons, or there are some  
25 reasons why this is done, other than  
26 the fact that a lot of vessels would  
27 not have been permitted to come to  
28 Fraser Mills, but due to the various  
29 restrictions, such as draught ---"

30 I believe he mentioned there draught as





1 a possible restriction. I believe Captain Dennis  
2 mentioned topping-off in Vancouver. He is referring  
3 to the completion of cargoes.

4 "This is a problem in our operation  
5 as well. We can't, for example, sell  
6 to a port which is going to be unloaded  
7 first. In other words, we can't load  
8 last on the vessel for first point of  
9 discharge unless we scow it to Vancouver  
10 for finishing."

11 Mr. Matheson, I submit, is being very  
12 open and frank in his evidence. I will refer you expressly  
13 -- because it appears on page 1931. He says, in effect,  
14 that the practical optimum type of cargo which we  
15 need to turn a ship around is 300,000 board feet.  
16 That is a day's work. I will refer to the figures  
17 in Exhibit 165, which I submit will demonstrate very  
18 clearly that there are an abundance of loads of this  
19 kind at Fraser Mills which are available from the  
20 Ports of New Westminster and Vancouver.

21 There is ample evidence for you gentle-  
22 men to find, as I submit you should, that the bridge  
23 is a very real handicap and that it is a very real  
24 factor in causing scowing shipments to go from the  
C2 25 Port of New Westminster and Vancouver.

26 THE CHAIRMAN: With regard to that  
27 trend of bigger ships, it is borne out by the evidence  
28 and by the pilotage returns.

29 MR. LEGG: Yes.

30 THE CHAIRMAN: While we see the number of







1 ships keeps pretty constant, but the tonnage has  
2 very sharply increased and this, of course, applies  
3 to New Westminster as well, where you see a sharp  
4 increase in the tonnage, while the number of ships  
5 has been about even throughout the years.

6 MR. LEGG: Yes, the economies of hand-  
7 ling the ships are very evident.

8 Mr. Smith has also referred to the  
9 next point in the evidence which I was going to  
10 mention, and this is actually the dollars and cents  
11 figures.

12 All I may say is that the Commission  
13 should have reference to the rising in the spread  
14 there.

15 COMMISSIONER SMITH: Before you proceed  
16 on the dollars and cents aspect, there is another  
17 question that has disturbed me in that connection,  
18 although not exactly along the lines of the argument  
19 that you are making. This bridge was built, I think,  
20 in 1918.

21 MR. LEGG: 1903. They commenced  
22 construction in 1903 and it was finished in 1905.

23 COMMISSIONER SMITH: Yes, by the  
24 Provincial Government, and then by agreement between  
25 the Federal and Provincial and maybe the municipalities  
26 -- I don't know whether there were any other parties  
27 connected with it, but in any event, the bridge  
28 was placed in a different status, and there was an  
29 accumulation of an amount, according to my notes,  
30 in 1939 of half a million dollars in some kind of trust





1 fund which, I believe, was to be put aside to  
2 make whatever changes or alterations in the bridge  
3 that were necessary to lend this structure to safety  
4 of navigation and other respects in that regard.  
5 Now, the thing that is disturbing to me is why there  
6 was not sufficient pressure being brought on some  
7 authorities that the money was in the kitty,  
8 and with the unsatisfactory navigating conditions  
9 at the bridge.

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W/rps

1 The answer may be that this problem  
2 didn't assert itself in its violence, and that the  
3 large volume was just starting to come there and  
4 before that there was no necessity for any great  
5 pressure being made to have something done about this  
6 bridge? Is there anything to that?

7 MR. LEGG: Yes; I would like to say  
8 to that, Mr. Smith, that I say it is a fair inference  
9 from the evidence; and again, a reasonable one, that  
10 in 1961, when the restriction on bridge-aft vessels  
11 coming through the bridge was placed by the pilots  
12 -- you will recall that in the evidence -- it was  
13 only then that people got really upset and started  
14 doing something or seeing if something could be done  
15 about this bridge. They had lived with it more or less  
16 like an old shoe, but they had lived with this problem  
17 -- that it was not a satisfactory bridge, and Captain  
18 Gilley said that he was not aware when it was  
19 constructed -- but they had lived with this problem  
20 and it wasn't until people were severely hit by  
21 reason of this restriction -- and I don't want it  
22 to be understood that I am criticizing the pilots'  
23 judgment -- but I am saying that it is a matter of  
24 historical fact that in 1961 the full impact of the  
25 pilots' restriction on the bridge-aft vessels going  
26 through the bridge in excess of 325 feet began to  
27 hit, and people began to say something should be  
28 done about it. I should say that this is the most  
29 likely explanation why nothing was done prior to that.

30 The only other comment I might make is







1 that the Department of Public Works are interested,  
2 judging from Exhibit 1171, in maintaining a reserve  
3 for the maintenance of the Westminster Bridge.

4 Mind you, they had been asked a question  
5 as to what was required to constitute the maintenance  
6 of the Fraser River Bridge and its operation; and the  
7 cost of the Fraser River Bridge averaged \$45,000  
8 per annum. This was in 1904, during which period the  
9 revenue average was \$153,000 per annum. These are,  
10 therefore, approximately self-balancing.

11 I took that answer to mean that those  
12 making the policy were interested in maintaining a  
13 self-balancing reserve and not one that was increasing  
14 in its capital appreciation.

15 In fairness to the Department, I must  
16 say that so far as I recall they have not been asked  
17 the specific question whether or not they were ever  
18 pressed to build up a fund to rebuild the bridge and  
19 change its construction, and I don't think that is  
20 in the evidence, or covered by the evidence.

21 Does that answer your question, Mr.  
22 Smith?

23 COMMISSIONER SMITH: Yes.

24 MR. LEGG: I now turn to Mr. Matheson's  
25 evidence, at page 1932 in which, at line 9, he was  
26 asked:

27 "Q. Would you turn to page 12, paragraph  
28 26 of the brief, Mr. Matheson, please.  
29 You will notice the comment there of  
30 the seven ships, reading from the second





1 sentence:

2 'Of the seven ships with bridge-  
3 aft that loaded scowed lumber in  
4 the Port of New Westminster and  
5 the fourteen similar type ships  
6 in the Port of Vancouver (Exhibit  
7 Nos. 4 and 5) only one ship, the  
8 'LINDO' was small enough to come  
9 within limitations set by the  
10 New Westminster and District  
11 Pilotage Authority as set forth  
12 in clause 8 above . . .'" --

13 And he is referring there to the  
14 restriction relating to the 375 feet ---

15 "Has that been the general experience  
16 as far as vessels in New Westminster  
17 are concerned?

18 "A. Yes, as far as loading at Fraser  
19 Mills. Are you referring to the  
20 restriction of the type of ship?

21 "Q. Yes, I am referring there to  
22 vessels of 375 feet.

23 "A. Yes, I have felt that this has  
24 been an increasing tendency, that the  
25 vessels available in the last two years  
26 have increased . . . " and he goes on  
27 to describe, in the following page, which I had also  
28 better refer to, the trend of packaging lumber for  
29 export and the trend towards greater size. Then he  
30 was cross-examined by Mr. Hunter, and at page 1394 he





Legg 21,195

1 said that it cost between \$2 and \$3.30 per thousand  
2 board feet to barge the lumber; and then he was asked:

3 "Q. Yesterday -- I just can't put my  
4 figure on it -- within the last two or  
5 three days one of the witnesses said  
6 it was the breaking point whether it  
7 was economical to bring a ship in and  
8 bring it out at below a certain amount?

9 "A. I don't know what the cost is of  
10 bringing a vessel up, but we use the  
11 figure of 300,000 feet as a minimum  
12 quantity, as being a day's work at  
13 Fraser Mills.

14 "Q. If you would mind turning to  
15 Exhibit 4 of your brief, there is a  
16 list of bridge-aft ships which were  
17 loaded with scow shipments at your  
18 mill at Vancouver. I notice the 'WORLD  
19 JAPONICA' had over a million board  
20 feet, the 'WEST RIVER' had one million  
21 three hundred and seventy-five thousand,  
22 the 'THORSODD' had 761,000, the 'PELAGOS'  
23 had 878,000 and the 'SAN JUAN EXPORTER'  
24 had a million and a half.

25 "In all of those cases, if you had  
26 been able to have had a bridge-aft  
27 ship, it would have been more economical  
28 to have loaded it at your dock?

29 "A. Yes, it would have been.

30 "Q. So in those cases the bridge-aft







Legg 21,196

1 "ships took much more than 800,000?

2 "A. Yes . . . "

3 In fairness, I am sure the Commission  
4 will note that Mr. Langlois cross-examined Mr. Mathe-  
5 son on this point, and this appears on pages 1935  
6 and 1936. It was suggested to him that the bridge  
7 was not the only factor that had influence here, and  
8 Mr. Matheson, of course, agreed that it can't be the  
9 only factor; but then a further suggestion was made  
10 that there were vessels which could have come up from  
11 Vancouver and New Westminster which did not. Then there  
12 was the evidence of Mr. Matheson when he was re-exam-  
13 ined, as to his explanation of those vessels which  
14 were available and could have come up and did not,  
15 and it was that they were, in most instances -- about  
16 90% of the instances mentioned -- taking a topping  
17 load; that is, there was a topping load available  
18 to them only; and that was the explanation of why  
19 those vessels did not come up.

20 Before proceeding from my general  
21 submission to the question of the bridge, there is  
22 the increasing trend towards bridge-aft vessels when  
23 carrying package lumber, and this has been a serious  
24 economic loss. Dealing with this point, there is  
25 Mr. Forrester's evidence at page 1940, and I have  
26 already referred to his evidence in part; but you  
27 will recall that he was experienced in shipping and  
28 had been responsible, in fact, for selecting vessels  
29 and posting them to Fraser Mills; and he dealt with  
30 the effect of the railway bridge with its present





D2 1 restriction, so far as the export of lumber is concerned  
2 in the Fraser River at page 1943, and his answer was:

3 "Well, of course, . . . it adds to the  
4 cost of delivering Fraser Mills lumber  
5 to overseas markets, because there are  
6 a number of vessels that we otherwise  
7 would be able to put up. No, I should  
8 rephrase that. We always endeavour  
9 to seek, if we can, vessels that don't  
10 have the bridge-aft because of this  
11 problem, but it is becoming increasingly  
12 difficult, so more and more we are  
13 getting ships that can't go to Fraser  
14 Mills, and we are thereby involved  
15 in additional costs which, as I say,  
16 adds to the cost of lumber delivered  
17 to foreign markets."

18 That was not cross-examined. There were  
19 people who could have challenged that statement if  
20 it had been challengeable, but I submit on the evidence  
21 which is before your lordship and the Members of the  
22 Commission, that there is no question but that this  
23 bridge must be a severe economic hardship.

24 Now, I have finished referring to the  
25 narrative of the evidence given by the witnesses, but  
26 I would like now to refer to what I would call the  
27 statistics, and here I am not going to refer to the  
28 Crown Zellerbach brief, but I will refer to Exhibit  
29 165A. Just to be sure that we are talking about the  
30 same document, it is the addendum to the brief submitted





1 by Crown Zellerbach to the Royal Commission on Pilotage.

2 Before I do that, I would like to file  
3 a further exhibit, if I have the leave of the Commission.  
4 This other exhibit brings up to date any figures that  
5 the Commission asked for and received in Exhibit 165A.

6 THE CHAIRMAN: It could be annexed to  
7 the original exhibit.

8 MR. LEGG: It could be Exhibit 165B.

9 THE CHAIRMAN: Yes.

10 MR. LEGG: There are copies available  
11 for Members of the Commission, and any counsel who  
12 wish to have a copy.

13 My lord and gentlemen, I submit that  
14 the following statistics demonstrate that this bridge  
15 has seriously obstructed the economic development of  
16 the upstream area and particularly at Fraser Mills.  
17 The first set of figures I refer to are quoting in  
18 Exhibit 165A, columns one to four, and those columns  
19 set out the number of ships and the volumes expressed  
20 in thousands of feet.

21 You will notice that in 1951 the  
22 percentage of loadings from the Fraser Mills was as  
23 high as 83.1%, with the number of ships 68, and the  
24 volume 52 million. The trend is set out year by  
25 year from 1951 to 1960, and you will see that at  
26 no time does it drop below 85%; and the 10-year average  
27 over that period of direct loadings from Fraser Mills  
28 is 822 feet, and the total footages are 595-1/2 million;  
29 so that 90.7% of the lumber shipped from Fraser Mills  
30 was shipped by direct loading.







1 Then comes the year of the restriction  
2 and you will notice what happens. In 1961 the percent-  
3 age of direct shippings dropped to 62.6%. This is  
4 not an unique year. This trend continued and it has  
5 continued to the present day. In 1962 it was 47.7%,  
6 and in 1963 it dropped again to 40.8% with only 29  
7 ships loading directly from Fraser Mills. In 1964  
8 the number has dropped again to 22 ships, with a total  
9 volume of only 15 million; and the percentage of  
10 direct loadings is down to 23.1%.

11 I say that those figures scream for  
12 attention and that they demonstrate, better than any  
13 words that I can use, the devastating economic effect  
14 that this bridge has had on the economy.

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M/rps

1 The figures for 1964 which I gave  
2 you are, of course, contained in the first paragraph  
3 of what I have called Exhibit 165B, although put  
4 in a slightly different form. We start with a  
5 ten-year average and then repeat the years since the  
6 restriction, 1961, 1962, 1963 to 1964. The figures  
7 are there.

8 Now the next effect which I say has  
9 occurred as a result of the bridge is the marked  
10 increase in the number of scow shipments from Fraser  
11 Mills and New Westminster and Vancouver, from 1951  
12 to 1963. Again, although that is not so entirely  
13 of New Westminster, it is remarkably so as far as  
14 Vancouver is concerned.

15 Now I am referring to columns five  
16 to ten on this same page, which is headed "Statement  
17 Showing Trend of Lumber Exports Between Direct Ship  
18 Loading at the Fraser Mills B.C. Dock and Scow  
19 Loads From Fraser Mills via New Westminster and  
20 Vancouver." You will notice that although in the  
21 same ten-year period the average of shipments to  
22 New Westminster and Vancouver by scow was only 9.3%  
23 of the total shipments, again in the years of restric-  
24 tion, 1961, 1962 and 1963, this shows a remarkable  
25 increase. The figure jumps up to 37.4% in 1961; in  
26 1962 to 52.3%; in 1963 to 59.2%. Although we did not  
27 give it as an average figure in Exhibit 165A, para-  
28 graphs 2 and 3 deal with what happened in the year  
29 1964.

30 The trend continues for the Port of





1 New Westminster -- that is, scow shipments from  
2 Fraser Mills through New Westminster. In 1964 it  
3 was only ten million, or almost eleven million, or  
4 16.3% of the total. But in Vancouver in 1964 there  
5 is a total of 40 million, or 60.6%. This appears  
6 as the bottom figure on the first page of Exhibit 165B.

7 Again, when you take all of this  
8 evidence together -- if you took each of these  
9 statistical facts alone, possibly they would not be  
10 significant, but when you examine all the evidence,  
11 I submit you are driven to only one conclusion only,  
12 and that is that this bridge has had a terrible  
13 economic effect upon Fraser Mills and, to the extent  
14 where Fraser Mills as a port is in jeopardy.  
15 It is, if not now a scow-bound port, almost, and is  
16 in danger of becoming completely scow-bound; and  
17 that should not be. That should not be on a river  
18 which is one of the longest and one of the most  
19 majestic in the world and one capable of economic  
20 development far beyond what its present development  
21 is.

22 Now I am going to refer, again, to  
23 some statistics, although very briefly. Dealing  
24 still with Exhibit 165A, and of course with 165B,  
25 but not quite to the same extent, I say that the  
26 figures set out on pages 33A and 33B of Exhibit 165A  
27 demonstrate that there are more bridge-amidships  
28 vessels than bridge-aft vessels loading lumber at  
29 Fraser Mills.

30 This is merely a matter of statistics.







1 We have heard enough, I suppose, about the restrictions  
2 upon bridge-aft vessels and it is not surprising that  
3 the figures demonstrate that this is very, very clear.  
4 But when you compare these with the increased use  
5 of bridge-aft vessels -- in Vancouver in particular  
6 and to a lesser extent in New Westminster -- I think  
7 you see the pattern of things in its complete context.  
8 But again you, my lord, have said that it is obvious  
9 that the pattern of vessels is to get bigger.

10 THE CHAIRMAN: I am just wondering  
11 here with regard to those ships that are scowing to  
12 New Westminster, if it were not for the bridge, would  
13 those ships have gone to Fraser Mills, or would there  
14 be any reason why they would still stay at New  
15 Westminster and have some scowing down to New Westminster?

16 You see, you have 16% in 1964 -- 16.3.  
17 Well, at times you know, there is a question of how  
18 the loading should be done and so on, and if there is  
19 only a little shipment from Fraser Mills and the  
20 main loading is going to be done at New Westminster,  
21 they would prefer to scow down anyway. I am just  
22 wondering whether there is any loading of lumber at  
23 New Westminster of any importance, aside from Fraser  
24 Mills.

25 MR. LEGG: I could not maintain that  
26 there is no lumber loading of no significance. I  
27 say that it must be conceded that there are reasons  
28 other than the bridge for not going up to Fraser  
29 Mills. But when you look at the figures for 1961 for  
30 instance -- and I am referring to page 5B, the statistics





1 dealing with scow shipments from Fraser Mills loaded  
2 on deep-sea vessels at the Port of New Westminster--  
3 you will notice the major number of ships are bridge-  
4 amidships vessels. But, there is a significant  
5 number of bridge-aft vessels and all of these, every  
6 single one of them, is a vessel that could not have  
7 gone to Fraser Mills.

8           You could never demonstrate beyond a  
9 shadow of doubt that the answer to your question, my  
10 lord, is "Yes." But I say that you cannot also  
11 ignore what has happened in the shipping trade, and  
12 it is highly probable, highly probable on the evidence  
13 of these witnesses -- Mr. Forrester came forth and  
14 gave evidence and said it was his view; Mr. Matheson  
15 gave evidence and he was cross-examined. I say on  
16 that evidence you cannot doubt that the bridge is  
17 responsible for this trend.

E2 18           COMMISSIONER RENWICK: I think there  
19 has been, over the years, a great economy to the other  
20 lumber exporters scowing to Fraser Mills, and a great  
21 economy to shipping, because the Fraser Mills loads  
22 off-dock, and the owners of other lumber, instead  
23 of scowing to New Westminster where they load off-scow  
24 and put the scow alongside Fraser Mills, they complete  
25 the shipment in half the time.

26           THE CHAIRMAN: This is borne out by  
27 the evidence, also.

28           MR. LEGG: Yes, and it is true that  
29 it is not only Fraser Mills that loads off the dock.  
30 They load both sides.





1 In this connection, I have already  
2 referred to Mr. Forrester's evidence and I have also  
3 referred to Mr. Matheson's evidence. But before I  
4 leave the subject of statistics, I would like to  
5 turn -- I have left the subject now of statistics  
6 of sailings from Fraser Mills, but I do want to deal,  
7 very briefly, with other economic disadvantages for  
8 those upstream of the Fraser Bridge. I am turning  
9 to page 2 of the addendum, Exhibit 165B.

10 The first calculation in paragraph 4  
11 is a calculation of the economic cost and therefore,  
12 I submit, loss and hardship to Fraser Mills through  
13 having to use this scowing process to either New  
14 Westminster or Vancouver. We have taken simply the  
15 total volume shipped by scow from Fraser Mills to the  
16 Port of New Westminster since the year of restriction,  
17 1961, to 1964, and the total volume shipped by  
18 scow from Fraser Mills to the Port of Vancouver.  
19 That gives us a total of 155-1/2 million fbm. The  
20 total cost of scowing this volume, using an average  
21 figure, a conservative average figure sustained by  
22 the evidence of Mr. Matheson -- you will recall he  
23 gave a low of \$2 and a high of \$3.30 -- we have  
24 used an average figure here of \$2.50, and the total  
25 amount comes out to in excess of \$388 million. But  
26 we must make some ---

27 THE CHAIRMAN: You said "million;"  
28 I think you meant "thousand."

29 MR. LEGG: Did I say million?

30 THE CHAIRMAN: Yes. This would help them







1 build the bridge.

2 MR. LEGG: Certainly. It is "thousand,"  
/JC/rps 3 \$338,000, and we must arbitrarily deduct something  
4 for the volume that was not shipped from Fraser Mills  
5 by reason of the bridge. And we have taken an  
6 arbitrary allowance of one-third. Therefore, the  
7 total cost of scowing comes to in excess of \$250,000  
8 for that period.

9 I only put that out as an indication  
10 of the measure of the economic loss and I could see  
11 that it is open to the criticism --- the one-third  
12 allowance being arbitrary, it is open to the criticism  
13 that it takes into no account the costs of getting  
14 a ship up to Fraser Mills.

15 Therefore, I only offer it as an  
16 indication.

17 In other indications set out in para-  
18 graph 5, the extra cost of scowing to New Westminster  
19 and Vancouver for the year 1964, to give an up-to-date  
20 figure, and using the same method of calculation,  
21 we have an average cost for the year 1964 of \$85,205.

22 There is another aspect to the economic  
23 hardship of Fraser Mills and it is referred to in  
24 paragraph 6 for this year and it is what I call the  
25 loss of use of the Fraser Mills dock during  
26 the year 1964.

27 The Fraser Mills dock, it was given  
28 in evidence, has two sea berths. It is available  
29 365 days of the year and despite the weather of the  
30 past few weeks, we are not an ice-bound port.





1 Putting that into terms of -- the  
2 wording that is popular these days is "dock days use,"  
3 we have a figure of 730 dock days use, but the actual  
4 occupancy of the Fraser Mills Dock during the year  
5 1964 was only 22 ships, or approximately 50 dock days  
6 use.

7 To translate that into percentage, the  
8 Fraser Mills dock was used only seven per cent of  
9 the time it was open, seven per cent of the time it  
10 was open to be used.

11 Again, we cannot prove this beyond  
12 a shadow of a doubt but certainly no responsible  
13 company is going to maintain a dock and have it  
14 only used seven per cent of the time.

15 THE CHAIRMAN: And not only maintain  
16 the dock, but maintain the channel leading to the  
17 dock.

18 MR. LEGG: Maintain the channel leading  
19 to the dock, thank you, my lord. I am glad to see that  
20 there is no struggle over the relevancy of dredging.

21 I next want to turn to something which  
22 developed later in this hearing: I am referring to  
23 the fact that Crown Zellerbach submitted a questionnaire  
24 to the Government particularly, the Department of  
25 Public Works, and asked certainly questions which  
26 were bothering them and which had developed out of the  
27 evidence.

28 You will recall that arising out of  
29 that questionnaire, which was used for, and the  
30 open explanation of what the position of the Government





1 was, arising out of that questionnaire, certain  
2 members, some of whom are present today, came and  
3 gave evidence before the Commission last September.

4 Now, I find it extremely difficult  
5 to put in fair terms the effect upon my client and  
6 certainly the effect which has been made of just what  
7 that evidence amounted to, but I think this can be  
8 said. The evidence did establish a serious lack of  
9 direction from those bodies of government responsible  
10 for solving the problem of the bridge.

11 The first evidence that I refer to in  
12 that connection is the evidence of Mr. Millar. I  
13 say that he came forward as a spokesman for the  
14 Department of Public Works. He said, and this is  
15 in his evidence -- speaking on the policy of the  
16 Department in regard to this bridge.

17 I say these from the Department -- I  
18 use the plural, because Mr. Millar did say he was a  
19 spokesman. I say this also applies least -- I am  
20 glad to say this, I say this also applies in general  
21 terms to the Department of Transport: these two  
22 Departments responsible for the problem of the bridge  
23 have not energetically pressed for any solution to  
24 the problem posed by it.

25 I think that is a fair statement of  
26 the evidence you have heard.

27 The reference to Mr. Millar's evidence  
28 is Volume 143, page 18366.

29 Mr. Millar, in his evidence, I think  
30 I'll refer to the statement, said he came to make a







1 policy statement.

2 This statement appears in line 20, and  
3 the witness was not being cross-examined. He was  
4 being asked by Commission counsel what his position  
5 was, and the witness said, at lines 20 to 23:

6 "THE WITNESS: Well, on matters of  
7 policy, your lordship, I am here to  
8 represent the Department, and possibly  
9 as the Department was asked questions,  
10 to start things I might make a state-  
11 ment."

12 He made several several statements,  
13 and on page 18367 he frankly stated -- and I am reading  
14 from line 28 to 30:

15 "First of all, we do not suggest the  
16 bridge is not a hazard to navigation.  
17 This we accept."

18 This is what he said; that the Depart-  
19 ment of Public Works, as a matter of policy, accepts  
20 this bridge as a hazard to navigation.

21 Let us go on from there: I find the  
22 explanation of why nothing has been done baffling,  
23 to say the least.

24 I think it can be summed up in the  
25 words of Mr. Millar again, at Volume 143, page 18373;  
26 lines 2 to 6. I am going to read it for the purpose  
27 of context, at the bottom of page 18372. He had  
28 referred to the history of this bridge at some length.  
29 He said:

30 "A. We also know that within the ten-





1 "year waiting period between 1939 and  
2 1949 the lift span was not installed  
3 and it would seem to follow that  
4 sufficient evidence to justify its  
5 installation was not produced, bearing  
6 in mind --- and this is an important  
7 qualification -- bearing in mind all  
8 the other factors which related to the  
9 problem.

10 "Well, the present position of the  
11 Department, I think I may say, is this.  
12 As I said, at the beginning, it accepts  
13 that the railway bridge does become  
14 a hazard to navigation. However, it  
15 cannot see that at present there is  
16 evidence of any substantial change in  
17 the degree of this hazard sufficient  
18 to justify any change in existing  
19 arrangements with the railway crossing."

20 Again I emphasize he is speaking for  
21 the Department of Public Works. That is, my lord,  
22 despite the protest, and despite the restrictions the  
23 Department could not say that there has been any  
24 change. That was its official view.

25 Your lordship and the Members of the  
26 Commission heard about the establishment of an  
27 inter-departmental committee. I am referring now to  
28 the one which was chaired by the Department of Public  
29 Works Chairman, Dr. Weekes and later by Mr. Daly;  
30 both members of that Department with members of the





1 Department of Transport on that Commission, and Mr.  
2 McLellan, a member of that Committee gave evidence  
3 as to its activities or lack of activities. He said  
4 at page 18406, lines 6 to 24:

5 "Q. But the Committee was set up in  
6 1960 or 1961.

7 "A. That is correct.

8 "Q. And has held two meetings since.  
9 Who was the Chairman of the Committee?

10 "A. Dr. Weekes.

11 "Q. He has now left the Department of  
12 Public Works. Who has replaced him?

13 "A. G.J. Daly.

14 "Q. Is he from Public Works?

15 "A. He is Chief of the Economic Services  
16 Department."

17 And then the Chairman interrupted:

18 "THE CHAIRMAN: Do you mean who replaced  
19 him as the Chairman?"

20 "MR. JACQUES: Chairman of the Committee.

21 "THE WITNESS: It is a very inactive  
22 Committee."

23 And indeed it was. It had only met  
24 twice and it had done virtually -- well, I would say  
F2 25 virtually very little.

26 On page 18411, dealing again with the  
27 activities of this Committee, and reading from line  
28 11 to line 26 of the evidence:

29 "Q. So there were four of you?"

30 That has reference to the four members of







1 the Committee.

2 "A. That is correct. That Committee  
3 met on two occasions, August 16th and  
4 December 14th, 1962. I am not sure  
5 at which meeting Mr. Lang had under-  
6 taken to obtain further information  
7 on the refusal to obtain the information  
8 on the traffic that was not going through  
9 the bridge as a result of the refusal  
10 of the pilots to take bridge-aft ships  
11 through the draw span."

12 Your lordship and gentlemen will recall  
13 that there had been some indication one member of this  
14 Committee had been charged with the responsibility  
15 of finding why this restriction had been placed, and  
16 what effect it was having, and the witness was asked:

17 "Q. Would your files show when Mr.  
18 Lang was instructed to receive that  
19 information?

20 "A. It would be at the meeting of the  
21 16th August or December 4th. I presume  
22 it would be the 16th August, because  
23 December 4th is probably when he reported  
24 that he had no information, and that  
25 is the last meeting that was held of the  
26 Committee."

27 At page 18422, lines 9 to 16, we  
28 hear a little more about this Committee and its lack  
29 of activity. Lines 9 to 16:

30 "Q. You were a member of the Committee





1 "and can say what the policy of that  
2 Committee was."

3 This is Mr. McLellan again.

4 "A. There hasn't been a meeting since  
5 the Chairman said he would wait ---

6 "Q. It seems to be one of these  
7 Standing Committees?

8 "A. That is correct.

9 "Q. It has not met since 1962?

10 "A. Correct."

11 Reading from the bottom of that page,  
12 line 28 to the following page, line 1, at page 18423:

13 "Q. Now, has any attempt been made  
14 by any member of that Committee to obtain  
15 the evidence given before this Commission?

16 "A. Not that I know of."

17 And the rest of his answers, which I  
18 will not bother to read, have all -- I am not here to  
19 cause embarrassment to individuals. I am here to  
20 say, candidly, what should be said in fact of government  
21 policy and I say that the evidence before you gentle-  
22 men is clear that the Inter-Departmental Committee,  
23 so-called, has done an insufficient job.

24 No attempt has been made by any member  
25 of that Committee to examine the evidence given before  
26 this Commission as to the problems imposed by the  
27 restrictions on the bridge.

28 Another aspect of the Government's  
29 curiosity in this matter was the economic need for  
30 deep-sea navigation above the railway bridge and some





1 evidence of this was given by Mr. Daly, but I submit  
2 that there was no adequate investigation made by this  
3 Committee on the economic need for deep-sea navigation  
4 above the railway bridge after its last meeting on the  
5 4th September, 1962. The date itself demonstrates  
6 this, my lord, but Mr. Daly's evidence in Volume 144  
7 at page 18529, lines 7 to 18, establishes that this  
8 is, in fact, so.  
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1 "Q. Now, let's take the subject matter  
2 with which this group was charged to  
3 investigate. That is, the economic  
4 need for deep-sea navigation above the  
5 bridge. Was that investigated by any  
6 member of your Department or any group  
7 in your Department <sup>subsequent</sup> to the 4th  
8 of December, 1962?

9 "A. Not as such to my knowledge..."  
10 and I think this is of the utmost significance ---

11 "... I should add if I may by way of  
12 explanation that we were aware obviously  
13 of the formation of this Royal Commission  
14 and we were aware that there would  
15 probably be a presentation made to it  
16 by the New Westminster Harbour  
17 Commissioners."

18 As I will say later on, I will say  
19 that government in general -- not any particular  
20 government -- I am not directing my remarks to any  
21 individual -- but the thinking of the Department was  
22 that the members of this Royal Commission were going  
23 to have evidence and the opportunity to make some  
24 very important recommendations in regard to this  
25 bridge; and, if I may say so, possibly the respon-  
26 sibility of investigating the engineering problem  
27 coupled with other navigational problems is one  
28 which, when this Commission was instituted, or  
29 commissioned, it didn't see itself as taking on; but  
30 in the light of all the circumstances surely there





1 can be no answer than that this Commission should  
2 make recommendations in regard to this bridge in  
3 the manner I submit they should.

4 Mr. Daly's evidence I have read at page  
5 18529, and at page 1855, in line with what I have  
6 just said -- I am sorry, that reference is incorrect;  
7 at page 18537 Mr. Daly said at line 21:

8 "Q. Therefore the policy that you have  
9 pursued as Chairman . . ." -- you will  
10 remember that Mr. Daly was speaking as Chairman of  
11 this Inter-Departmental Committee --

12 " . . . therefore the policy that you  
13 have pursued as Chairman is to wait  
14 for information to reach you but not  
15 to go out and seek information?

16 "A. Merely because the information we  
17 would be seeking would be already pre-  
18 sented to this Royal Commission . . . "

19 And you must bear in mind that the evidence also  
20 establishes that there has been no curiosity in the  
21 transcript of the evidence before this Commission --  
22 at least, there wasn't at the time of the examination  
23 of these witnesses last September; and that was after  
24 this Commission had heard evidence regarding this  
25 bridge.

26 "Q. Is that a correct summary of your  
27 position as Chairman of this Inter-  
28 Departmental Committee?

29 "A. I would think that this is fairly  
30 accurate, yes."





1 THE CHAIRMAN: Are you going to pass  
2 now to another phase?

3 MR. LEGG: No, my lord; I will be about  
4 ten minutes.

5 THE CHAIRMAN: When it is convenient  
6 you may stop for a short recess.

7 MR. LEGG: I will take about ten minutes,  
8 if that suits your lordship and members of the  
9 Commission.

10 THE CHAIRMAN: Yes.

11 MR. LEGG: There was another Inter-  
12 Departmental Committee which we discovered rather  
13 late in the course of the proceedings last September,  
14 but it turned out to be -- it may not be correct to  
15 refer to it as an Inter-Departmental Committee, but  
16 some of the witnesses from the Department of Trans-  
17 port did refer to it as such when the Chairman or  
18 members of Transport gave evidence; Mr. Darling, it  
19 may fairly be said -- his description wasn't questioned,  
20 that it was an Inter-Departmental Committee -- they  
21 had meetings of those with certain responsibility  
22 with regard to the bridge. He described it first as  
23 a meeting arranged by the Department for the purpose  
24 of bringing the C.N.R. into the picture with the  
25 Department of Public Works for the purpose of technical  
26 studies regarding the bridge. Now, this meeting,  
27 if it will not be accepted that, in fact, this was  
28 a committee in the full sense of the term -- this  
29 committee met on only three occasions, and this is  
30 established by Mr. Taylor's evidence in Volume 144,







1 reading from page 18544, line 11 to page 18546, line 1.

2 He was asked this question:

3 "Q. Now, so far as the area above the  
4 bridge is concerned and its economic  
5 development, what information has your  
6 Department obtained regarding sailings  
7 of ships to the Fraser Mills area?

8 "A. Well, as I said, we obtained inform-  
9 ation that has been supplied by Crown  
10 Zellerbach to the New Westminster Harbour  
11 Commissioners.

12 "Q. Have you ever sought any inform-  
13 ation from Crown Zellerbach directly?

14 "A. Not directly.

15 "Q. Have you sought to obtain a copy  
16 of the submission made to this Royal  
17 Commission on that very subject?

18 "A. Not specifically.

19 "Q. Do you agree with the statement of  
20 Mr. Daly that the position of this  
21 inter-departmental committee has been  
22 to wait for evidence to be received  
23 rather than ---

24 "A. I would say on that point at the  
25 meeting with the Harbour Commissioners,  
26 we requested certain information in  
27 elucidation of the position of the  
28 company from what we had.

29 "Q. I am sorry?

30 "A. At the meeting we had with the





1 "New Westminster Harbour Commissioners.

2 "Q. November 22nd, 1962, is that the  
3 meeting?

4 "A. They undertook to obtain this  
5 information for us from the company.

6 "Q. Undertook to obtain what information?

7 "A. Questions we had asked on the  
8 submission that they had shown us.

9 "Q. What specifically was this inform-  
10 ation that was being sought?

11 "A. Further details on the traffic  
12 and the method of operation.

13 "Q. I see. Was there any discussion  
14 as to the difficulties or otherwise of  
15 obtaining that information?

16 "A. We were not made aware if there  
17 were any.

18 "Q. Did you pursue the matter any  
19 further with the New Westminster Harbour  
20 Commissioners after that meeting?

21 "A. No, I don't think there were any  
22 further discussions. We never heard  
23 anything more from the Harbour Commission-  
24 ers.

25 "Q. There was no follow-up by your  
26 department or by any other member of  
27 the Committee?

28 "A. Not to my knowledge."

29 Well, the Transport Committee meeting,  
30 with its terms of reference, at least is curious and





1 asking questions three years ago, and it had failed  
2 to get an answer, but never pressed for one, and surely  
3 this is not the correct approach.

4 COMMISSIONER SMITH: I wonder if you  
5 would object to an interruption here? This, perhaps,  
6 is a little bit of a digression, but in the summary,  
7 on the plan and scope of your proposals in your brief  
8 you use this or similar language:

9 "It is only my taking such action . . . "  
10 -- that is, recommending either the improvement of  
11 the bridge or some other method to eliminate the  
12 hazard to navigation there -- "It is only by taking  
13 such action that those municipalities . . . . . will  
14 achieve their ever-active desire to be on the deep-  
15 sea waterfront."

16 MR. LEGG: Yes.

17 COMMISSIONER SMITH: Is there, within  
18 the scope of a reasonable period, something on the  
19 cards that would warrant or justify the opening up  
20 of those areas, which, I take it, would be at  
21 considerable expense to put them on what might be  
22 called the waterfront?

23 MR. LEGG: Mr. Smith, the only way I  
24 can answer that question is to answer it generally  
25 and I hesitate to do that because I am familiar with  
26 this river, and I know that the channels do vary and  
27 the opinions expressed on one area might be very  
28 difficult from another, but I do say that from the  
29 general economic development of the Lower Fraser River  
30 -- and when I say "the Lower Fraser River," I am including







G2 1 that area which is included in the jurisdiction of  
2 the New Westminster Harbour Commissioners -- we have  
3 a map attached to their brief, Exhibit 165, and their  
4 jurisdiction extends upstream to Kanaka Creek. Kanaka  
5 Creek may be a mysterious name to you as it was to  
6 me when I first heard it, but I merely refer to it  
7 in order to demonstrate to you that it is upstream  
8 and there is considerable industrial development; there  
9 is a big cedar mill -- in fact, one of the largest  
10 cedar mills in the Commonwealth -- also located there  
11 -- although it may have been exceeded by now -- and  
12 there is important industrial development and it  
13 uses port facilities; and these port facilities are  
14 of a different nature to Fraser Mills. Certainly  
15 booming facilities are in very high demand there.

16 That, of course, has nothing to do  
17 with the bridge, but going down to Fraser Mills, that  
18 is the only deep-sea area that I know of; but there  
19 may be others. You will see on this map that there  
20 is a shaded red area indicating "occupied heavy  
21 industry," and Fraser Mills is one such area; and  
22 whether or not on the south bank there are also these  
23 heavy red shaded areas, "occupied heavy industry" --  
24 whether it is contemplated that there will be  
25 developed deep-sea facilities, I am afraid, again,  
26 I . . .

27 COMMISSIONER RENWICK: There is one  
28 there -- the Gypsum Mill.

29 MR. LEGG: Yes; but I cannot give you  
30 satisfactory evidence or your question. If the





1 Commission was interested I am sure that my clients  
2 would be delighted to develop that information for  
3 you.

4 THE CHAIRMAN: We have in the evidence  
5 some information about preparations being made by  
6 the Harbour Commissioners in Surrey.

7 MR. LEGG: Yes.

8 THE CHAIRMAN: There is something in  
9 the evidence on that.

10 MR. LEGG: Mr. Watson, who is appearing  
11 today for Harbour Commissioners, may be able to  
12 give you them. I say "may," because it is unfair to  
13 place this new burden on him when I haven't discussed  
14 the topic with him, but he may have some information  
15 or be able to get some information.

16 I was anxious to continue on this  
17 business of the second committee, and I think I can  
18 summarize this by saying that the second committee met  
19 last in the summer of 1963.

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4/rps

1 I will conclude by referring to  
2 Mr. Darling's evidence in Volume 144, pages 18551 to  
3 18552, and he was being examined, not cross-examined,  
4 by Mr. Macgillivray. In lines 8 to 18 he was  
5 asked:

6 "Q. And at this meeting in the summer  
7 of 1963 of the second committee, were  
8 there engineering people there to dis-  
9 cuss engineering solutions to this  
10 problem?

11 "A. That is right.

12 "Q. There were? But this was a  
13 preliminary meeting at which definite  
14 solutions were not proposed?

15 "A. No, it was simply to lay the  
16 groundwork for any future investigation."

17 I do not quarrel, my lord and Members  
18 of the Commission, with having meetings to lay the  
19 groundwork for future investigation, but they could  
20 come faster than they did and they could display more  
21 energy than they did, and they have not. I say that  
22 this puts you gentlemen in the position of saying:  
23 "Is this proper? Has this bridge been looked at by  
24 those responsible for it in an effective way?"

25 I say the evidence says simply "No, it  
26 has not."

27 So in summary of this point -- I have  
28 a second submission to make, but I will conclude now  
29 on this point -- we say the bridge is a recognized  
30 navigational hazard. We say it is causing an increasingly







1 serious economic loss to upstream business -- to  
2 business upstream of the bridge. We say that neither  
3 the Department of Public Works nor the Department  
4 of Transport has demonstrated that any solution is  
5 being energetically sought and the only solution  
6 that has been offered to this Commission is the  
7 solution which was proposed by us, reflecting the  
8 views that are expressed in the Privy Council Order,  
9 that this bridge should be converted to a lift-span  
10 bridge.

11 I overlooked -- and I apologize for  
12 this -- but I overlooked referring to the evidence  
13 on that point. Exhibit 182 was an exhibit filed by  
14 the Harbour Commissioners dealing with Colonel Swan's  
15 recommendations, and you will recall that he estimated  
16 that it would cost about \$2 million to convert this  
17 bridge to a lift-span bridge.

18 He appeared before this Commission last  
19 September and gave his evidence, gave his explanation  
20 of why this was so. The Department of Public Works  
21 were here; the departmental solicitor was here.  
22 Colonel Swan was not challenged on any evidence he  
23 gave. He was not cross-examined.

24 Now you, Mr. Smith, must be particularly  
25 conscious of the fact that in the questionnaire,  
26 Exhibit 1171, the Department had said -- and I use  
27 their exact terminology because I think it is  
28 interesting -- the Department had said, in answer to  
29 the question:

30 "What is the estimated cost of converting





1 the present swing-span bridge to a  
2 vertical lift-span bridge?

3 "A. The Department of Public Works  
4 has not undertaken a detailed engin-  
5 eering study from which the cost can  
6 be estimated. However, it is broadly  
7 considered that the cost could be  
8 up to the order of \$8 million."

9 COMMISSIONER SMITH: What was the  
10 estimate, if one was made -- and it comes to my mind  
11 there was one made in 1947, I think, by Dr. Pratley?

12 MR. LEGG: Well, this is a mystery  
13 into which Crown Zellerbach for one has not been  
14 allowed to pry. We asked for -- and this again is  
15 made reference to in Exhibit 1171 -- we asked for  
16 the information. This question was put:

17 "Question 7: Has the Department  
18 of Public Works investigated the  
19 problem of altering the Fraser  
20 River Railway Bridge from a swing-  
21 span to a lift-span bridge? If this  
22 problem has been investigated, what  
23 advice has been received and what  
24 reports have been received dealing  
25 with this problem? What is the  
26 opinion of the Department of Public  
27 Works on proceeding with conversion  
28 to a lift-span bridge and if the  
29 Department has not decided to proceed  
30 with the conversion to a lift-span





1 "bridge, what is the reason for this?"

2 The answer we got, and I do not criticize  
3 the Department's policy; but they said the Pratley  
4 Report, which they quoted very briefly -- and the  
5 Pratley Report was not available to us.

6 THE CHAIRMAN: They gave you the findings  
7 though of the Pratley Report.

8 MR. LEGG: They gave us a summary of  
9 the findings.

10 THE CHAIRMAN: Yes, to the effect that  
11 it was not practical to do so.

12 MR. LEGG: That is right, but you recall  
13 that Mr. Millar, again speaking to the Department of  
14 Public Works, said that he doubted very much that the  
15 Pratley Report could now be depended upon in view of  
16 the passage of time since it had been made.

17 To answer your question, Mr. Smith, as  
18 to was any estimate made of the cost at that time,  
19 I do not know and Crown Zellerbach does not know.  
20 When we attempted to find out we were met with the  
21 position of the Department that this was a privileged  
22 report and all we do know about it is the short  
23 quotation that appears on page 6 as to the reasons  
24 for not proceeding with this conversion. They are:

25 "(1) Uneconomical in terms of the  
26 capacity, condition and probable  
27 future life of the steel and masonry  
28 structures as it then stood.

29 "(2) Undesirable due to the river  
30 conditions, i.e. nature of bottom, shift







1 "of sand, probability of scouring or  
2 silting, dredging programs, currents,  
3 navigation lanes and influence of  
4 other structures upstream or downstream,  
5 freshets, interference of flow, et  
6 cetera.

7 (3) Impracticable in consideration of  
8 the type, location and extent of new  
9 construction likely to be needed and  
H2 10 the related construction problems."

11 Now, in Colonel Swan's testimony he  
12 gave evidence that he had worked as an engineer on  
13 the Patullo Bridge and was familiar with the river  
14 bottom in that area. So you were hearing from an  
15 expert engineer very experienced in bridge building,  
16 and not only experienced in bridge building, but  
17 familiar with this very site. He said that there is  
18 no problem of the shifting of sand, probability of  
19 scouring or silting, dredging programs, currents,  
20 et cetera.

21 So we went to the next point --

22 "Impracticable in consideration of the type, location  
23 and extent of new construction likely to be needed and  
24 the related construction problems."

25 It is a very broad submission, but  
26 giving it the best interpretation one can with the  
27 restrictions that were placed on it, I say that  
28 Colonel Swan gave it as his opinion that the life  
29 remaining in this bridge was a 40-year life  
30 and that it was practical.





1 Again we met that and again Colonel  
2 Swan was not cross-examined. On the evidence before  
3 this Commission there should be no doubt that in all  
4 fairness Crown Zellerbach has attempted to grapple  
5 with this problem of the bridge. It has attempted  
6 to put forward its own explanation. It has attempted  
7 to meet every known criticism of what it stands for,  
8 what policy should be pursued, and on the evidence  
9 there can be no doubt that it is open to you gentle-  
10 men to find -- as I now suggest you should find --  
11 that this bridge should be converted to a lift-span  
12 bridge.

13 That concludes my submission on the  
14 first point. I shall have a very short submission  
15 to make in regard to another aspect of this problem  
16 and I estimate that I will approximately half an  
17 hour, my lord, further.

18 THE CHAIRMAN: So we will adjourn now  
19 for ten minutes.

20  
21 --- A short recess.

22  
23 --- Upon resuming:

24 MR. LEGG: My lord and Members of the  
25 Commission: before the short adjournment I had  
26 indicated that I had finished with my first sub-  
27 mission. However, I do just want to make one refer-  
28 ence before I do finally leave it to a point which  
29 arose during the course of a question from Mr. Smith  
30 in the course of a discussion about the cost of





1 \$2 million. My point having been made, this was  
2 unchallenged evidence. The only other evidence that  
3 was before this Commission as to the cost of the  
4 bridge was set out initially in Exhibit 1171. I  
5 will just read the statement at page 6 of that  
6 Exhibit. In answer to the question of what was the  
7 estimated cost, the Department gave us a very general  
8 and brief four-line statement --

9 "The Department of Public Works has  
10 not undertaken a detailed engineering  
11 study from which the cost can be  
12 estimated. However, it is broadly  
13 considered that the cost could be up  
14 to the order of \$8 million."

15 In the course of discussions which  
16 ensued from that I had overlooked making a reference,  
17 which I now wish to make; namely that you recall when  
18 Mr. Millar gave evidence before this Commission last  
19 September he was asked to give a breakdown of that  
20 \$8 million figure. He was cross-examined by me and  
21 he did, ultimately, refer to the figures as having  
22 been given to him by a Mr. Jenks, I think his name  
23 was, from the Canadian National Railways.

24 I can tell the Members of the Commission  
25 that during the lunch hour adjournment on that day  
26 I did telephone Mr. Jenks in Montreal and asked him  
27 about the circumstances. He described the convers-  
28 ation a certain way and I put that to Mr. Miller --  
29 I put Mr. Jenks discussion of that estimate of  
30 \$8 million to Mr. Miller in the course of evidence, and







1 I said that this had been described to me as a  
2 "guestimate," and did Mr. Miller agree with that  
3 description or not. Mr. Miller frankly said:

4 "If Mr. Jenks says that is a description  
5 of the figure, I accept it."  
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TC/rps 1 This may be found in Volume 143, page  
2 18440, line 14, to page 18441, line 14.

3 THE CHAIRMAN: And it includes, also,  
4 other elements such as rerouting the railways and  
5 loss of time and things like that.

6 MR. LEGG: It may do, my lord, and it  
7 may not.

8 THE CHAIRMAN: It also includes an  
9 element that they were thinking of a lift-span, 450  
10 feet wide.

11 MR. LEGG: That is right. What  
12 significance anyone can give to a figure that is  
13 described as a guestimate, and described as a differ-  
14 ent type of bridge than has ever been suggested  
15 before, namely a lift-span bridge with an opening of  
16 approximately 340 feet, twice the present gap between  
17 the north and south piers and also which may include  
18 other economic costs of rerouting the railroad one  
19 cannot say, but the Department were aware of what  
20 Crown Zellerbach was proposing and they were aware  
21 of what the New Westminster Harbour Commissioners --  
22 or could have been aware because the New Westminster  
23 Harbour Commissioners were proposing essentially  
24 the same thing and yet their reply in writing, first  
25 of all, was this four-line statement about the \$8  
26 million estimate, and when the evidence was developed  
27 it turned out to be a guestimate.

28 So I will now leave that submission  
29 and turn, now, to my second submission which has to  
30 do with the problems, generally, and when I say the





1 "problems generally," I mean the problems of navig-  
2 ation on the lower Fraser River from Sandhead to  
3 Kanaka Creek.

4 We say this in addition to recommending  
5 the conversion of the bridge from a swing-span to a  
6 lift-span, this Commission should recommend that a  
7 single Federal Government authority should be  
8 established to control all matters relating to matter  
9 of navigation of the lower Fraser River, all matters  
10 relating to the Port of New Westminster and the ports  
11 upstream of the Westminster Railway Bridge, including  
12 all matters of pilotage of this lower portion of the  
13 Fraser River.

14 We say that this single government  
15 authority is required to supervise a uniform but  
16 energetic, economic development of the Fraser River,  
17 and to regulate the authority of pilots on the Fraser  
18 River; the construction and modification of marine  
19 work that may interfere with navigation on the  
20 Fraser River and aspects of traffic sailing to and  
21 from the River; the uniform development of harbour  
22 facilities in the River Basin, including the maintain-  
23 ing of an adequate dredging program and the co-ordination  
24 of the development of river, railway and road traffic  
25 in the Fraser River area.

26 I am conscious more by the silence  
27 of the railways than by anything that has been said  
28 before this Commission that their interests must  
29 be affected by this railway bridge. Why they have  
30 been silent, I do not know, because after all, they







1 do report to the Board of Railway Commissioners and  
2 they are regulated by this body which, in turn,  
3 reports to Transport so I do not put forward this  
4 suggestion nor does my client propose that the rail-  
5 way interests should be ignored, but they should not  
6 control the situation either silently or by implic-  
7 ation.

8 In support of this submission, I sub-  
9 mit what I candidly will concede to be argumentative  
10 matter in the main. My first point, however, is that  
11 the serious problem of the railway bridge and the  
12 restrictions imposed by the pilots on navigating  
13 through the bridge has never been investigated by a  
14 single governmental body with sufficient information  
15 to assess the effect of these regulations on the  
16 shipping industry, nor does a government body exist  
17 for the purpose of examining all interests affected  
18 by the bridge and in putting a solution into effect.

19 This is supported by the Port of  
20 New Westminster Harbour Commissioners' brief, Exhibit  
21 166, page 3, sub-paragraph (c) where they say:

22 " --- that machinery should be set  
23 up whereby difference of opinion on  
24 technical matters between pilots,  
25 shipping interests or harbour admin-  
26 istration and others may be brought  
27 to a satisfactory conclusion by  
28 mutual negotiation and consultation."

29 My lord and gentlemen, we endorse that  
30 idea, and I submit that it is supported by the evidence





1 before you.

2 In that connection I refer to the  
3 previous submissions I have made as to the inadequacies  
4 -- and I regret to say this -- but this is an inadequate  
5 policy that has been pursued by the two Government  
6 Departments; Public Works and Transport.

7 I say that one of the problems that  
8 has resulted from this is because there has been no  
9 single governmental body or agency with full authority  
10 to regulate. This is the main reason for the failure  
11 to do anything about this bridge. The present public  
12 bodies or agents who control, or if they do not control --  
13 they affect the bridge -- are, firstly, the Department  
14 of Transport, the Department of Public Works, the  
15 Board of Railway Commissioners and the New Westminster  
16 Pilotage Authority. But there is no single  
17 governmental body to co-ordinate all their interests  
18 and responsibilities and there should be.

19 The third point is that, with respect  
20 to the judgment of pilots on matters of navigation  
21 and the safety of shipping which should not be final  
22 without a governmental authority to ensure that  
23 all interests that are affected by that judgment,  
24 either directly or indirectly, had been adequately  
25 considered.

26 Again, I do not question the sincerity  
27 of the judgment of these pilots in reaching the  
28 judgment they did. I will say that there was only  
29 the loosest reference by government authority to  
30 consider what effect, if any, these restrictions might





1 have but there was no one there who could consider  
2 it. There was no way to go and find your way around  
3 in this maze of inter-department committees, and we  
4 never see just what we are dealing with because  
5 reliance is placed upon matters that are not open to  
6 us to investigate.

7 I am not naive enough and I am sure  
8 my client is not naive enough to think that matters  
9 of this kind should be available to public examination,  
10 but so far as the responsibility goes, there should be  
11 no question -- no question that in a good government  
12 system -- and I am sure in Canada we extol the  
13 idea of excellence in government, and if there is  
14 anything that our North American society stands for  
15 today, it is excellence in government and we should  
16 always be critical with the Government when it fails  
17 to excel in its administrative policies.

18 COMMISSIONER SMITH: Just on that  
19 point, Mr. Legg: you suggested a tri-party examination  
20 of the situation that arose out there with regard  
21 to the piloting of these large bridge-aft ships  
22 through the bridge. You have suggested shipping be  
23 one party and the other part the Commission, and  
24 you have the other party the experts in piloting  
25 who say that it is dangerous.

26 MR. LEGG: Yes.

27 COMMISSIONER SMITH: They gave their  
28 reasons.

29 MR. LEGG: Yes.

30 COMMISSIONER SMITH: What sort of conclusion







1 are you going to come to to get an answer from that  
2 Committee with that kind of set-up?

3 MR. LEGG: Well, Mr. Smith, I say  
4 firstly that there is always a duty to assess the  
5 validity of the judgment of an expert. I think we  
6 would be naive if we did not do that as the first  
7 process.

8 I am satisfied with the judgment of  
9 these experts insofar as it has been capable of  
10 assessment through the processes of examination  
11 before this Commission.

12 I cannot point to any lack of capability.  
13 They are experienced pilots who gave their views and  
14 we are faced with that situation.

15 However, we can draw their attention  
16 to the next point and that is how serious is the  
17 effect of that judgment or of those judgments? Who  
18 did it hurt? Who does it assist?

19 There was a duty to be performed there  
20 that has never been done.

21 COMMISSIONER SMITH: The pilots  
22 themselves, in their decision, also take some  
23 punishment in that they are deprived of some dues  
24 that they would otherwise receive by piloting these  
25 large bridge-aft ships through there.

26 MR. LEGG: Exactly. And I am sure  
27 that every pilot would like to see - and they said it  
28 at the hearing - they would like to see this bridge  
29 go because, with respect, Mr. Commissioner, you are  
30 right: there was evidence at this hearing that this





1 hurt them in a financial way. This hurt their  
2 pocketbooks because they are paid a fee for the  
3 ships that go out to Fraser Mills.

4 COMMISSIONER SMITH: I am not arguing  
5 one way or another. I am trying to get at all the  
6 facts I can.

7 MR. LEGG: I do say that you start  
8 with the local authority you have there to do that.  
9 You start with the expert local knowledge and there  
10 is a responsibility goes with any judgment, and this  
11 must be measured, and if solutions are available,  
12 they must be measured and assessed.

13 The economic development upstream of  
14 the railway bridge is certainly one result that is  
15 followed from restrictions placed by the pilots at  
16 this bridge that has never been examined adequately.

17 There is another aspect to that that  
18 should be examined alongside the economic develop-  
19 ments and the problems of navigation and that is,  
20 what is to be done with the physical structure itself?  
21 This bridge is a marine pilotage problem because the  
22 pilots have found it so. What should be done about  
23 it? Should the bridge be converted to a lift-span?  
24 Is that economically feasible? Does that fill the  
25 need? How much will it cost?

26 All of these are questions which we  
27 have attempted to answer in the best way that is  
28 available to our capability, because you cannot get  
29 at what is going on.

30 All I can say is that we can place before





1 you very strong indications that something should be  
2 done and ask that you recommend that be done.

3 But our difficulty in making a  
4 submission that is comprehensive before you is that  
5 we are in a position of ignorance when it comes to  
6 certain areas. For instance, it would be very useful  
7 to assess the Pratley Report, but we have not had  
8 an opportunity to do that. If we had seen this  
9 Report and what it stood for and the thinking that  
10 has gone on since then. That is the important thing:  
11 if we had been able to develop that, then we would  
12 have been able to assess it and we may have agreed  
13 with it. We may have agreed with it.

14 All I can say, coming ignorantly as  
15 we do with the restrictions placed upon us, is that  
16 there is a very self-evident solution proposed by  
17 people many years ago, and that is of converting the  
18 bridge to a lift-span bridge, and we have given all  
19 the evidence we can in support of that.

20 However, I have gone off on a tangent  
21 away from the point I was making that you cannot  
22 have the judgment of experts who are experts in  
23 navigational matters affecting interests -- you have  
24 got to accept their judgment if it is valid, and then  
25 you have to assess it and see what can be done about  
26 it and, if you have some single authority to assess  
27 such a situation and be responsible, and the respon-  
28 sibility is the key; have the responsibility of doing  
29 something about it because there is no government  
30 agency which has that responsibility at the present







1 time.

2 My lord and gentlemen, that concludes  
3 my submission, apart from this: I am always aware  
4 in matters of this kind that questions may remain  
5 unanswered. I would be -- in fact, it is my duty  
6 to try and answer questions that any Member of the  
7 Commission wishes to bring forward on any of the  
8 submissions I have made this morning.

9 However, if there are no questions of  
10 any kind, I would perhaps merely say this:

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W/rps

1 I do have, not a verbatim copy, but  
2 I have a written form of the points that I made to  
3 you this morning, and although this argument is  
4 being transcribed I would only be too happy to file  
5 with the Commission the written argument -- that is,  
6 the written form of argument -- which I made to  
7 you, if that will assist you.

8 THE CHAIRMAN: If it is the same thing  
9 as you have just said this morning, we are going to  
10 have it anyway, and what I am going to suggest is that  
11 you can read the transcript and if you are dissatisfied  
12 with it then you can file your written pleadings.

13 MR. LEGG: Thank you, my lord.

14 THE CHAIRMAN: I have just one question  
15 that doesn't arise from what you have just said, but  
16 in the material we have, we have another brief from  
17 Crown Zellerbach Mill at Ocean Falls. Is that the  
18 same thing?

19 MR. LEGG: The same company.

20 THE CHAIRMAN: It is not the same name.

21 MR. LEGG: No, it is not the same name.  
22 The corporate structure of Crown Zellerbach is not  
23 unduly complicated, but the parent company has its  
24 headquarters in San Francisco and there are a number  
25 of subsidiaries operating in Canada and mainly in  
26 British Columbia. Crown Zellerbach Building Materials,  
27 as the name suggests, is that division of the company  
28 which deals with lumber and building supplies, whereas  
29 Ocean Falls is a pulp mill. I think that is all that  
30 is carried on there, but they are owned by the same





1 company.

2 THE CHAIRMAN: Well, I put that  
3 question because of the description of the Crown  
4 Zellerbach Building Materials Company at New  
5 Westminster, which is the only one we have, and there  
6 was no reference made to Ocean Falls.

7 MR. LEGG: No.

8 THE CHAIRMAN: I noticed also that the  
9 names of the two were not the same. That is why I  
10 am asking you this question.

11 MR. LEGG: I think, for the purposes  
12 of any submissions that have been put before you,  
13 my lord, you could regard them as the same corporate  
14 identity -- the same corporate person.

15 I would like to express my thanks for  
16 a very fair and, if I may say so, stimulating hearing;  
17 and on behalf of my clients I am very happy to say  
18 that we have received the utmost co-operation from  
19 the staff of this Committee and also, I may say, the  
20 utmost courtesy.

21 Thank you very much.

22 THE CHAIRMAN: Thank you.

23 Mr. Bird?

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25  
26 MR. J.I.BIRD (Vancouver Chamber of  
27 Shipping): My lord and honourable Commissioners. I  
28 am appearing on behalf of the Vancouver Chamber of  
29 Shipping, and I will be making a submission on their  
30 behalf with respect to the B.C. pilotage district in







1 addition to New Westminster, and finally will be  
2 making a submission on behalf of the Aluminum Company  
3 of Canada.

4 Now, I have been here for a day or  
5 two and I have made good use of my time. I am going  
6 to be able to shorten my argument up very considerably.

7 I propose to deal with the recommend-  
8 ations of the Vancouver Chamber of Shipping, which  
9 appear in their brief, and as summarized in B3 in  
10 the index of briefs. I am not necessarily going to  
11 take the recommendations in the order in which they  
12 appear in the brief of the Chamber of Shipping.

13 Recommendation No. 9 relates to the  
14 feelings of the Chamber with respect to the organiz-  
15 ation that the Pilotage Commission have to recommend  
16 be established should follow, and I find that the  
17 views, insofar as the Chamber are concerned, are  
18 very substantially the same as those of the Shipping  
19 Federation in Montreal in their brief, which appears  
20 in the index at B27, Nos. 1 and 2, which deal with  
21 the organizational side, which the Victoria Chamber  
22 of Shipping supports right down the line.

23 The feeling is that we must have an  
24 independent body in Ottawa of commissioners who will  
25 control and supervise pilotage throughout Canada;  
26 that that is essential; that it be non-political and  
27 that it be responsible to Parliament -- something of  
28 the same order, I suppose, as the Board of Grain  
29 Commissioners, about which I don't know very much,  
30 but I rather think we would wish that it operate more





1 or less in the same way.

2 Each pilotage district would have its  
3 local committee responsible only to the parent body  
4 in Ottawa, and, by legislative action, would receive  
5 powers to deal as effectively and as completely as  
6 possible with local problems. In our view they should  
7 be wide powers, but with adequate safeguards for the  
8 interests which will be applying to them from time  
9 to time with respect to necessary charges, and that  
10 sort of thing. I don't think it is necessary for  
11 me to say anything more than that.

12 There is one thing that I would add,  
13 and that is that we do not feel that these powers  
14 should be granted in a Statute. We must, of course,  
15 have an enabling Statute, but we think it favourable  
16 to get away from the possibility of things being too  
17 rigid. Regulation, we feel, would be the favourable  
18 method of dealing with the problem. I emphasize,  
19 of course, that there must be safeguards for all  
20 the interests.

21 I think everyone agrees, or there was  
22 only one brief that didn't take the position, that  
23 our present situation is not adequate, and it is not.  
24 I am not going to lay blame anywhere, and I don't  
25 think it likely that the Commission will wish to.  
26 What, in my submission, and with respect, the Commission  
27 must do is to fix matters and set up an organization  
28 that will work efficiently in the interests of all  
29 concerned.

30 Now, once we have our organization --





1 our two bodies -- we must then understand what we  
2 really want to achieve.

3 Although your lordship and Commissioners  
4 will be so much more knowledgeable than I about the  
5 whole Canadian pilotage picture, it has become most  
6 apparent that perhaps the whole concept, the whole  
7 approach, that had been originally made to pilotage  
8 was wrong in many respects. I am not going to enlarge  
9 upon that, but I can illustrate it in this way: If  
10 we understand what we want to achieve, I think it  
11 comes down to three or four major matters.

12 First of all, we are concerned with  
13 safety -- the safety of ships that make use of our  
14 ports and take goods in and out of them. We are  
15 interested in the economy. In other words, our  
16 pilotage charges must be fair and reasonable as far  
17 as is possible in respect of the service which they  
18 have to provide.

19 Thirdly, there must a fair return to  
20 the pilots who do the job, and the membership of the  
21 Vancouver Chamber of Shipping recognizes that.

22 Finally, there must be a fair distri-  
23 bution of the total fees collected, or the total  
24 revenue, over the various agencies which must produce  
25 the work.

26 Now, to that end the shipowners or  
27 the operators, such as my clients, recognize that  
28 there must be some form of compulsion so far as  
29 dues are concerned. They do not agree that there  
30 should, of necessity, be a compulsion to take pilots,







1 so long as the interests of safety are provided for,  
2 and to that end there must be exemptions as there are  
3 now to take care of special situations; so that it  
4 might work something like this, where each district  
5 should determine what it is going to cost to provide  
6 this service, and then the Board would have to deter-  
7 mine, within that particular district -- and, of  
8 course, all of them certainly wouldn't likely be the  
9 same -- what the charges are to be; how they are to  
10 be levied; and, in fact, how the money is to be  
11 raised. Finally -- and this is, perhaps, one of the  
12 major points which the Chamber of Shipping has been  
13 concerned with: how is that revenue to be distributed,  
14 and, in particular, who is to fix a proper and  
J2 15 fair remuneration for the pilots? Here, again, the  
16 Chamber supports Recommendation No. 3 of the  
17 Shipping Federation, that some formula should be  
18 developed to provide for a pre-set knowledge of what  
19 annual remuneration there should be.

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M/rps 1 It should be a fixed annual remuneration  
2 that may well be subject to change as a result of  
3 changing conditions, but in effect we should budget.  
4 We are providing a service. We should determine what  
5 we are going to do and we should budget for it and  
6 one of the main things is the cost of paying the  
7 employees who are going to do the work. That should  
8 be geared to an appropriate workload, as indicated  
9 in the Shipping Federation's recommendation, naturally.  
10 And there should be a fair return.

11 I must observe now that I think that  
12 the approach taken by the pilots in British Columbia  
13 that they are out for as much as they can get is  
14 wrong. That is not the right approach.

15 Now to this end -- and this, of course,  
16 comes to the other recommendation of the Vancouver  
17 Chamber of Shipping that the ship operators should  
18 not have to negotiate directly with pilots as to  
19 what pilots' earnings ought to be. They do not  
20 employ the pilots. They have to use them, but they  
21 consider that that is not a matter which they should  
22 be concerned with.

23 Of course, following along that, we  
24 say that it is a matter which should directly concern  
25 the local pilotage committee, because they are the  
26 ones who will be responsible within that area for the  
27 administration of the district, subject of course  
28 to the control of the parent body.

29 So that is the first point we make.  
30 We do not think that we should be required to negotiate





1 with pilots for a fixed remuneration. If the  
2 Commission should see fit to provide for it, it  
3 should be determined by the body which is qualified  
4 to do that.

5 Secondly -- and these matters rather  
6 dove-tail -- the determination of the scale of fees,  
7 as to how your pilotage fees should be charged, whether  
8 it is draught or tonnage or mileage or what-have-you;  
9 the Chamber feels that that is a matter which should  
10 be negotiated between the ship operators and the  
11 committee and that it is not a matter which should  
12 concern the pilots, because that is the basis of the  
13 revenue; that is where the revenue comes; that is  
14 how it is calculated. That should not be the concern  
15 of the pilots so long as they are paid a fair wage.

16 It is then up to the committee to  
17 ensure that adequate funds are provided by this  
18 means to defray the costs which should be defrayed  
19 in that manner. I am not suggesting that all costs  
20 relating to pilotage should be defrayed by revenue;  
21 of course not. That would not be possible. But  
22 certain matters can, and that is one of them. If  
23 that were to come about, we would get away from  
24 all these problems which presently face the ship  
25 operator. Certainly they would land in the lap  
26 of the local committee, but, with deference, I think  
27 that is where they should land, because there is  
28 a body who determines what the rate should be and,  
29 assuming it is a fair rate, then the pilots can have  
30 no complaint -- nor indeed could anybody else.







1 In that respect -- and I must touch  
2 on this -- in the brief presented by the British  
3 Columbia pilots the suggestion was there that each  
4 port or area should be self-supporting. One of the  
5 reasons apparently advanced for not putting a pilot  
6 up in Prince Rupert was that there would not be  
7 enough business to support a pilot. Well, with  
8 deference, I think that view is wrong.

9 Surely the particular area that has  
10 not been developed to the extent that another area  
11 has been developed should not suffer; the people  
12 who are sending a ship there should not suffer  
13 because there is not enough business, not when this  
14 is a matter of compulsion either of payment of dues  
15 or in taking a pilot. It must be the same -- and  
16 I think this illustration was given by Mr. Middleton  
17 when he was giving his evidence -- it is the same  
18 as a public utility serving a remote area and a  
19 heavily populated area. The one must subsidize  
20 the other and things must be evened out.

21 Of course, so far as the pilots are  
22 concerned, if their remuneration is fair, is fixed,  
23 it would not matter. It would not matter at all.

24 One other point I wish to make on  
25 the compulsory payment of dues is that the Chamber  
26 believes that this is the appropriate way of approach-  
27 ing it. That safeguards your exemptions, or whatever  
28 one wishes to call them. An illustration, of course,  
29 is where you have a vessel like the HARRIET MARU,  
30 which the Commission will recall was a Japanese ship





1 which serves an iron mine at Jedway in the  
2 Queen Charlotte Islands. This vessel I think makes  
3 a trip there every six weeks, and the same master  
4 is on her. He may make, say, 20 trips a year; I  
5 do not know. However, he certainly will know those  
6 waters better than a pilot because the same pilot  
7 will not take him in every time, and since he is  
8 going 20 times a year, he will probably be there  
9 much more often than any pilot who does take him  
10 in.

11 So that is an instance in which there  
12 should be exemption, in my submission, from payment  
13 of pilotage dues. Of course, that is consistent  
14 with safety and it is consistent with fairness.

15 The other situation, of course, is  
16 where you have vessels which are on a regular run in  
17 other places going through the same waters with the  
18 same master. Of course, these are matters which  
19 would have to be considered by the local pilotage  
20 committee and it is them who would have to determine,  
21 in my submission, as to whether either a pilot should  
22 be taken or dues should be paid.

23 THE CHAIRMAN: May I interject here?

24 MR. BIRD: Yes.

25 THE CHAIRMAN: You said before you  
26 believed that this should be a compulsion to maintain  
K2 27 the service. If all the regular traders are exempt,  
28 who is going to pay for the maintenance of the service?

29 MR. BIRD: All the regular traders?

30 THE CHAIRMAN: Yes.





1 MR. BIRD: That situation would never  
2 arise in my submission, not in Vancouver with so many  
3 tramping vessels.

4 THE CHAIRMAN: In the previous history  
5 of British Columbia the old bylaw there said that  
6 those who had an exemption like that -- or let us  
7 say that they had special licences for their  
8 masters and first officers -- well, they were assessed  
9 also an amount. They paid \$100 per year per licence  
10 in order to contribute to the maintaining of the  
11 service. Everyone each year paid \$100. This, of  
12 course, decreased the demand for pilots and therefore  
13 the service was being maintained that way.

14 MR. BIRD: Did that apply to . . .

15 THE CHAIRMAN: It was in British  
16 Columbia.

17 MR. BIRD: . . . Canadian coastwise  
18 vessels?

19 THE CHAIRMAN: I suppose so. It is  
20 in the old bylaws.

21 MR. BIRD: Well, of course, here with  
22 pilotage payable only by foreign ships . . . But I  
23 recognize the strength of your lordship's observation  
24 and, of course, they must raise it with the local  
25 committee.

26 Before I get on to the northern stations,  
27 I would like to deal with the pilots' qualifications,  
28 which I can cover fairly rapidly, I think, my lord.

29 The recommendation appears in number  
30 one, and this recommendation is as follows:







1 "We recommend that provision should  
2 be made for training these men in  
3 manoeuvring deep-sea ships before they  
4 become pilots."

5 Of course, that relates to the number  
6 of occasions when vessels or shipowners or operators  
7 sustained liability due to damage to docks. I do not  
8 think that the pilots themselves would disagree that  
9 such accidents as there are -- and I am not saying  
10 that there are that many -- but such accidents as  
11 there are are very largely dock damage matters and,  
12 since the pilots in Westminster are largely taken from  
13 tugboat operators, tugboat masters -- small ship  
14 men as opposed to deep water men -- then ship handling  
15 in the case of a large vessel is one of the significant  
16 features, or should be one of the significant features  
17 of their training.

18 The Chamber also feels that some  
19 provision should be made to enable deep water men  
20 to enter the pilotage service without the restrictions  
21 which appear in the evidence -- and the Commission  
22 will recall what those restrictions are.

23 In other words, having attained the  
24 necessary age and experience and with the necessary  
25 qualification, they were not able to gain entry to  
26 the pilotage service because of the fact that  
27 experience on the coast cannot be gained as easily  
28 by these people.

29 The other point that was made was the  
30 right or the privilege of ship operators being present





1 at inquiries. I do not think I need say anything  
2 more than that. The question is there. I think it  
3 is an appropriate one, and I see that it appears in  
4 many of the other submissions.

5 In the moment that I have left, my  
6 lord, before dealing with the remoter districts, I  
7 will just refer to the recommendation with respect  
8 to the change-over points for pilots in British  
9 Columbia. The Commission will recall the problem  
10 that arose as a result of the action of the British  
11 Columbia pilots and the consequent action of the  
12 American pilots in coming right on to the border.  
13 That is not a matter than can be resolved by the  
14 local committee. It would, of course, have to be  
15 taken up at a higher level; probably through the  
16 U.S. State Department, or certainly the Government  
17 of the State of Washington.

18 It is a problem, however, and not only  
19 is it depriving the British Columbia pilots of  
20 revenue, it is also adding substantially to the cost  
21 of ship operation.

22 THE CHAIRMAN: The problem is settled  
23 now because there was a compromise. I understand  
24 now it is only a question that they have lost some  
25 mileage -- seven miles.

26 MR. BIRD: That is true, but your  
27 lordship will, of course, have more advanced know-  
28 ledge than I have. I was not aware that it had been  
29 settled, because at the present time the ships oper-  
30 ating have a pilot for the seven miles, or else have





1 to go to Victoria to pick one up.

2 THE CHAIRMAN: We were told in June or  
3 September that this had been settled and everything  
4 was back to normal now, except that there had been  
5 a compromise between the American pilots and the  
6 Canadian pilots and they were giving a little more to  
7 the American pilots.

8 MR. BIRD: I am sorry, my lord; I was  
9 not aware of that, but I will certainly inquire.

10 THE CHAIRMAN: Yes. Captain McLeese  
11 is here; he can tell you.

12 MR. BIRD: My lord, if the Commission  
13 wish to adjourn now I can conclude with the balance  
14 of my argument relating to the Aluminum Company of  
15 New Westminster after.

16 THE CHAIRMAN: That is quite all right.  
17 We will now adjourn until this afternoon at 2:30.

18 MR. BIRD: Thank you.

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20 --- Luncheon adjournment.  
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JC/rps 1 --- Upon resuming at 2:30 p.m.

2  
3 MR. BIRD: My lord and learned  
4 Commissioners, at the adjournment I had dealt very  
5 briefly with, I think, three of the minor points  
6 in the brief of the Chamber of Shipping, and I now  
7 wish to come to the brief of the Aluminum Company  
8 of Canada.

9 COMMISSIONER SMITH: Excuse me, Mr.  
10 Bird. Before you pass on, would you mind some  
11 questions?

12 MR. BIRD: Not a bit, Commissioner  
13 Smith. Actually I probably will have occasion, in  
14 dealing with certain points of the Aluminum Company  
15 brief, to return to the Chamber of Shipping for  
16 emphasis purposes, but any questions you wish to  
17 raise, I will be very pleased to deal with now.

18 COMMISSIONER SMITH: I would prefer  
19 to wait until you come back to it.

20 MR. BIRD: Very well, sir.

21 The Board will recall the peculiar  
22 situation at Kitimat on this long British Columbia  
23 coastline and that there are, roughly, a hundred and  
24 twenty pilot miles from McInnis Island to Kitimat  
25 dock, and a hundred and thirty-three the other way,  
26 from Kitimat to Triple Island and I think 90% or  
27 certainly 80% of the vessels calling at Kitimat  
28 come south about and not north about.

29 They come from the south requiring  
30 they to pick up a pilot, or in this case two pilots at





1 Cape Veal.

2 Now, the first submission of the  
3 company is that, requiring them to carry two pilots  
4 during this period is oppressive and unnecessary  
5 even, I think, having regard to safety, which they  
6 recognize is one of the prime considerations.

7 Now, I make my submission on two  
8 ground: first of all, with respect to the position  
9 of the pilots' station. Since this is a service,  
10 I say that the company ought not to be penalized  
11 because there is no pilot station at, or very close  
12 to the place where the pilot actually commences  
13 piloting.

14 Your lordship and the Commissioners  
15 will recall from the evidence that approximately  
16 17 hours elapses after a pilot is picked up off Cape  
17 Veal until he arrives off McInnis Island and starts  
18 to work.

19 During that time the company is  
20 required to pay detention, although -- and I will  
21 deal with this aspect a little later on -- they  
22 are required to pay detention with respect to two  
23 pilots, where two pilots have to be used as they  
24 are now.

25 My submission is this: that where  
26 that situation exists, the detention charge or an  
27 amount equivalent overall, which we can represent  
28 by calling it "X" dollars representing this detention  
29 charge should be shared by the whole District; charged  
30 against all ships. The reason being that the Aluminum





1 Company and any other company, in my submission,  
2 should not be penalized because no pilotage station  
3 was near the place where the pilot should be picked  
4 up is available, close to the place where the  
5 pilot starts work.

6 Obviously there is, perhaps, a good  
7 reason why this cannot be brought about, but with  
8 respect, I do not think that that is a ground for  
9 saying that a company that has established docks in  
10 other places that ships call, far from a particular  
11 pilot station, or a place where pilots are normally  
12 picked up, should suffer.

13 Of course, there are some other reasons,  
14 and the main one is indicated in the brief, and that  
15 is that the Aluminum Company and others in similar  
16 positions, also Crown Zellerbach at Ocean Falls  
17 are now required to pay for two pilots on the basis,  
18 of course, as presently contained in the bylaw where  
19 continuous piloting is likely to exceed eight  
20 hours.

21 There is a good deal of evidence from  
22 the witnesses for the Aluminum Company, and also  
23 evidence for the pilots which establishes that,  
24 on the one hand, these pilotage waters offer no  
25 unusual dangers and the pilots, on the other hand,  
26 said "Yes, they do, and we had to worry about weather  
27 in the winter and that kind of thing."

28 Whether two pilots are required  
29 or not is a problem that, in my submission, must  
30 be faced by the local committee if the Commission should







1 decide one should be set up. They would have to  
2 take all these matters into consideration. First  
3 of all, how long the pilot should be on continuous  
4 duty, and in this particular instance, how long,  
5 in fact, they are on continuous duty because the  
6 evidence was quite unsatisfactory as to the actual  
7 time or the average time spent in piloting.

8 The situation, of course, has changed  
9 now. We have got faster ships and the harbour dock  
10 area has been dredged, so there is no delay as a  
11 result of tide in getting there. There could be  
12 a delay in weather, of course, but certain factors  
13 have been removed.

14 Where a pilot has to pilot for eight  
15 hours and the average is found to be eight and a  
16 quarter or nine even, I submit that the local  
17 committee would be entirely justified in saying:  
18 "Well, one pilot is required and could be taken and  
19 he could be paid overtime, or say a surcharge for  
20 the extra hour."

21 Of course, experience will have to  
22 determine what is the appropriate thing to do, but  
23 what I do say is that supposing they should say  
24 that -- let me put it this way: supposing the  
25 committee should say, "No. We think you should take  
26 two pilots," then I think that the charge for the  
27 additional pilot should be spread over more people.  
28 Could that not be contained in a mileage charge?  
29 Sorry -- not a mileage charge, but another charge  
30 apart from mileage, draught or tonnage.





1 I don't think it is fair that it  
2 should be levied entirely upon a company who establishes  
3 a manufacturing place that is a long way inland,  
4 because we are requiring compulsory payment of  
5 dues or compulsory taking of a pilot.

6 If that be so, I think there should  
7 be some means established by which those costs can  
8 be shared amongst others who are also availing  
9 themselves of the services.

10 Of course, we are very close to the  
11 line. It was 12 hours before. Now it is eight hours.  
12 The pilots said: "Yes, we will talk about it if  
13 you put faster ships on the run." That never was  
14 done and, while I would be the first to concede that  
15 safety is the most important thing to consider, I  
16 think it will be a problem for the committee --  
17 this question of double pilotage.

18 Of course, the pilots contend in  
19 their brief, they say: "We don't want to be paid for  
20 a pilot and a half, or the equivalent of one and  
21 a half pilots. We want to be paid for two full  
22 pilots." So, in effect, they contend that the charge  
23 ought to be increased.

24 The most desirable result, I suppose,  
25 would be to, well, build a pilot station right at  
26 McInnis Island and do away with all the detention  
27 from between Cape Veal and McInnis Island. The  
28 pilots probably would not object because they would  
29 have more people available to work in other places,  
30 but that solution obviously would not be satisfactory.





1 The other way it might be done is to  
2 have a pilot on a northern station who could be  
3 made available at some suitable place close to  
4 McInnis Island, or in the northern pilotage waters,  
5 but that may well not be satisfactory in all weather.

6 The point I wish to get across is  
7 that, because these things cannot be accomplished  
8 is no reason for saying that the Aluminum Company,  
9 and others in a similar position, should pay the  
10 penalty of being where they are because there is no  
11 pilot station closer, or because it is not feasible  
12 to establish a pilot station closer to the place  
13 where pilotage should commence.

AA2 14 I do not want to labour it, but I  
15 do want to get that point over and it is, as the  
16 Board will have seen, a matter of very real consequence  
17 insofar as pilotage costs are concerned.

18 To the brief are appended examples  
19 of the pilotage costs, both ways; excessive in  
20 some cases, or they would exceed \$1,000.

21 Of course, we are not dealing now  
22 under circumstances where the company is forced  
23 purely on straight accounting, to keep pilots there  
24 because it costs more to transport them back and  
25 forth from Vancouver and weather-wise, this is  
26 another problem they have to contend with: their  
27 planes do not always fly.

28 All these things add up to what I  
29 choose to call - perhaps in every case it is not a  
30 fair connotation - but it really is a penalty, in







1 my submission an unreasonable penalty.

2 COMMISSIONER SMITH: Just on that  
3 point, Mr. Smith: in the evidence at Prince Rupert,  
4 I think, one of the Aluminum officials stated in  
5 answer to a question from the Commission that the  
6 incidence of pilotage costs on aluminum was between  
7 68¢ and 70¢ a ton.

8 At that time -- I don't know what it  
9 is today -- aluminum was selling on the markets  
10 of the world at 22-1/2¢ a pound.

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W/rps 1 Now, to the ordinary mind -- lay mind  
2 -- it didn't seem that 70¢ a ton was a very severe  
3 penalty on a product that was selling on the market  
4 at 21-1/2¢ a pound. Would you care to comment?

5 MR. BIRD: Yes. My recollection of  
6 the evidence was that the problem arose so far as  
7 the ability of the Aluminum Company to compete with  
8 other companies in putting their product down in the  
9 places where it was to be sold, and that their margin  
10 was extremely small. I think that came out in the  
11 evidence . . .

12 COMMISSIONER SMITH: Yes, you are  
13 quite right; they raised the competitive aspect and  
14 they certainly gave a lot of information on that; but  
15 it didn't seem to ring a bell that the pilotage  
16 impost was very severe.

17 Now, I am not saying whether it is  
18 or not, but we will have to examine that when we sit  
19 down to get all these things sorted out.

20 We also had information provided in  
21 Sydney where some evidence was given by, I think,  
22 an underwriter when he was on the stand, that the  
23 incidence of the cost of pilotage on a ton of coal  
24 in Sydney was half a cent a ton on a ton of coal that  
25 was selling on the St. Lawrence market for somewhere  
26 between ten and fifteen or sixteen dollars a ton; so  
27 when you get these illustrations it is a little hard  
28 to understand a complaint about pilotage when the  
29 incidence of the pilotage on the price obtained for  
30 the finished product is so much in excess of the





1 cost of the service.

2 MR. BIRD: Well, I can only answer  
3 that by saying that we must be governed by the evid-  
4 ence, and there was positive evidence from Mr.  
5 Connolly, I think, and perhaps Mr. Burke, which  
6 established, in my submission, that the additional  
7 cost, or, rather, the cost of the pilotage was a  
8 prime factor in the Aluminum Company's competitive  
9 position.

10 I am sure this hasn't escaped you,  
11 but this related to partial shipments . . .

12 COMMISSIONER SMITH: That is true;  
13 I should have mentioned that.

14 MR. BIRD: Yes; and I think you will  
15 agree that when you compare, say, a cent or half a  
16 cent a ton on aluminum with what it is on the market  
17 -- 22-1/2¢ a pound -- that is not a true comparison.  
18 I think we must deal with these small sums that are  
19 being taken out against which pilotage of 700 or 800  
20 or 900 or 1,000 dollars is being charged; because  
21 that, of course, must be added to the freight in  
22 determining the cost of getting the product out of  
23 Kitimat and landed at the places where it is going to  
24 be sold.

25 COMMISSIONER RENWICK: Would it not  
26 be true to say that the two examples mentioned are  
27 prices delivered? The aluminum price, I think, is  
28 a terminal price?

29 MR. BIRD: I wouldn't be sure.

30 COMMISSICNER RENWICK: And similarly







1 in the case of coal at the pithead, it would be  
2 delivered to St. Lawrence.

3 MR. BIRD: There is no question about  
4 that; but so far as aluminium is concerned I wouldn't  
5 be certain. But I think the point there was that  
6 it was a cost factor affecting their competitive  
7 position.

8 Now, this matter, of course, must be  
9 dealt with by the local committee which has knowledge  
10 of it and is fully familiar with the situation  
11 which may, of course, change; and as I have mentioned,  
12 it has changed in the last four or five years so  
13 far as the time which a pilot is piloting contin-  
14 uously is concerned. If it is looked into now we  
15 may well find that the actual piloting time is less  
16 than eight hours. We may well find that. I think  
17 we more or less agreed that would likely be the  
18 case in the summer, and certainly it wouldn't be  
19 hard to determine exactly what the actual time of  
20 piloting is, because that is all we are concerned  
21 with.

22 Of course, obviously, if we only have  
23 to take one pilot instead of two then the cost of  
24 piloting is very substantially reduced.

25 Of course -- and here I take issue  
26 with the pilots -- if we have a fixed remuneration  
27 related to the per pound it doesn't affect them at  
28 all; it doesn't operate to reduce their income. That  
29 is one of the beauties of it. They get paid their  
30 "X" dollars, a fair, appropriate wage, and the question





1 of a detention might be necessary -- I don't know;  
2 so that the Board, or, rather, the Commission, or  
3 the Commissioners, will have to determine "Well, we  
4 need so much money. What is the fairest way of  
5 getting it?"

6 COMMISSIONER SMITH: And would the  
7 pilot's annual income be a guaranteed one?

8 MR. BIRD: A guaranteed one?

9 COMMISSIONER SMITH: Yes.

10 MR. BIRD: I think there would have  
11 to be some -- you mean over a period of years?

12 COMMISSIONER SMITH: Well, it would  
13 have to be over a period of time. I don't know how  
14 long.

15 MR. BIRD: I think the wage would have  
16 to be set, and so long as the pilot worked, of course,  
17 he would be entitled to be paid to that extent, so  
18 long as he was piloting; and, of course, that could  
19 be controlled by the committee in determining how  
20 many pilots were necessary and how long they should  
21 work. To that extent certainly I think there would  
22 have to be a guarantee.

23 In passing, I must observe -- and this  
24 may have been inadvertant -- but in looking at the  
25 pilots' brief it is quite evident -- and I don't  
26 think I am being unfair in making this statement --  
27 there is no suggestion that they should get a fair  
28 wage compared to other industries, other masters,  
29 if you like, or that it even should have any relation  
30 to other people. The evidence was fairly clear that





1 they wanted everything they could get.

2 Now, if that be correct -- if I am  
3 correct in making that statement, and I think I am  
4 from the evidence -- I say that is not the proper  
5 approach. I say that they are entitled to a fair  
6 wage but they are not entitled to go on forever and  
7 ever and ever as their brief indicated.

8 THE CHAIRMAN: I think the reason is  
9 that they said that they don't consider their earnings  
10 wages, therefore, they have lean years and therefore  
11 they take whatever they can get in the other years.  
12 That was their reasoning.

13 MR. BIRD: Well, that was not the  
14 way they were acting.

15 Now, my lord, I don't think there is  
16 much more that I can say about that point.

17 I will only add that so far as the  
18 Aluminum Company is concerned, like the Vancouver  
19 Chamber of Shipping it has no real complaint about  
20 the mileage charges or the draught or the tonnage.  
21 What they were complaining about at the time of the  
22 hearing was these added costs of detention, trans-  
23 portation and maintenance.

24 THE CHAIRMAN: They would like to be  
25 on the same footing as the southern ports?

26 MR. BIRD: Yes, they would, my lord.  
27 Perhaps it would not be unreasonable for them to pay  
28 a little more up there, but if they are going to  
29 be asked to pay more then they should be entitled  
30 to exemption; and as indicated in Recommendation No. 3,







1 if no northern pilotage station is established south  
2 of Prince Rupert then the compulsory payment of  
3 pilotage fees should not be charged but applicable  
4 pilotage fees will be paid.

5 It works both ways. I recognize the  
6 necessary, as my lord pointed out, that if you are  
7 going to have the service everybody should pay for it  
8 and that it would not be appropriate for them not  
9 to use pilots; everybody might decide not to use  
10 pilots or to pay fees. But if all the material  
11 which goes into providing the service is not made  
12 available then there is very good ground for saying:  
13 "Well, we should not have to take a pilot if we don't  
BB2 14 want one," or "We should not pay the fees if we  
15 don't take a pilot."

16 That is the position which the  
17 Aluminum Company takes and must take; and, in my  
18 view, with respect, I think it is a very fair state-  
19 ment; and the way of fixing it is to spread it  
20 over all.

21  
22 -

23  
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AM/rps

1 Now, the third recommendation of the  
2 company is as to pilots' accommodation at Kitimat,  
3 where it is necessary either to detain them or to  
4 see that they are accommodated whilst they are await-  
5 ing transportation.

6 It is an expensive matter to accommod-  
7 ate them in an hotel. The submission of the company  
8 is that they can be comfortably accommodated and  
9 properly accommodated on board ship. Captain Loder  
10 and Mr. Birk indicated that that could be done, that  
11 the accommodation was there and it was comfortable  
12 accommodation for any pilot who wished to take  
13 advantage of it.

14 The evidence also was to the effect  
15 that, in most cases, the pilots preferred to stay  
16 ashore and their evidence was that they preferred to  
17 stay ashore.

18 Now, I am not going to suggest they  
19 should not be permitted to stay ashore if they wish  
20 to. What I do say is that if they stay ashore then  
21 they stay ashore partly at their own expense, because  
22 I think it only fair that -- well, for instance,  
23 my clients apparently would be much happier to know  
24 that I took an economy air flight down to Ottawa and  
25 did not travel first class. The point is exactly  
26 the same. It must be reasonable. It must be  
27 reasonable so that if I wish to travel first class,  
28 then I certainly pay the difference.

29 Of course, the proper accommodation  
30 or food must be provided; there is no question about





1 that. But if it can be done much more cheaply this  
2 way, then the companies should not be compelled to  
3 accept the election of the pilot who wishes to stay  
4 ashore at greater expense.

5 THE CHAIRMAN: The reason for that  
6 question is that they did not want to be forced into  
7 some ships, some particular ships. That is the reason  
8 why they want to make the rule that they will never  
9 be obliged to stay aboard ships, so that they won't  
10 happen to be aboard those particular ships. It is  
11 just on account of a few ships, apparently, that they  
12 want to make a rule.

13 MR. BIRD: I was not aware that they  
14 limited it in that respect, but that is something ---

15 THE CHAIRMAN: That is the reason  
16 given.

17 MR. BIRD: Well, it may be a particular  
18 type of vessel where they don't ---

19 THE CHAIRMAN: At times the accommo-  
20 dation aboard is pretty bad.

21 MR. BIRD: If the accommodation is  
22 not good, then I would certainly agree that they  
23 should not be required to make use of it. I entirely  
24 agree it should be appropriate accommodation and  
25 the food must be appropriate.

26 MR. LANGLOIS: Who should decide that?

27 MR. BIRD: My lord, these observations  
28 apply so far as the Vancouver Chamber of Shipping  
29 is concerned and I do not wish to go over them again.  
30 The same points apply there.







1                   Now I would like to turn to the  
2 Vancouver Chamber of Shipping brief, in respect of  
3 New Westminster. The recommendations were limited  
4 there.

5                   The only thing I wish to say, so far  
6 as the bridge is concerned, is that the view of the  
7 Chamber of Shipping is that, rightly or wrongly, the  
8 pilots ought not to be placed in a position where  
9 they can take arbitrary action and say: "No, we will  
10 not do this," or "We<sup>will</sup>/not do that." That is something  
11 that must be controlled by the local committee.

12                  The second submission is -- and I  
13 think it is a very sensible one -- strangely enough,  
14 nothing was said, I think (although my friends may  
15 correct me), I do not think anything was said by the  
16 New Westminster pilots or by the British Columbia  
17 pilots on this question of combining the two into  
18 one District. In my submission I think it is a very  
19 appropriate thing to do. I do not think that any  
20 real argument could be advanced against it.

21                  Certainly economy would be provided.  
22 You could do away with a pilot boat, perhaps. You  
23 might have to establish a boarding station at Sandhead  
24 for ships coming there, but it makes sense throughout,  
25 and I do not think there would be any real problem  
26 in the change-over with the river pilots going else-  
27 where in British Columbia.

28                  THE CHAIRMAN: Is that overlapping  
29 the District limits, or just the combination of the  
30 two Districts? Those are two proposals we received





1 there.

2 MR. BIRD: The combination of the two,  
3 to combine it into one, my lord -- make it one British  
4 Columbia District.

5 THE CHAIRMAN: So all the British  
6 Columbia pilots would be permitted to pilot through  
7 the Fraser River?

8 MR. BIRD: Yes.

9 THE CHAIRMAN: All the British Columbia  
10 pilots?

11 MR. BIRD: Yes.

12 THE CHAIRMAN: Without any special  
13 knowledge of the river?

14 MR. BIRD: Oh, they would have to have  
15 local knowledge. This could only take place over  
16 a period of time, of course, but I think this is  
17 something that the Commission should consider.  
18 Naturally the river pilots, or those who pilot in  
19 the river, would have to be experienced in the river,  
20 naturally, and in the first few years you might find  
21 that the river pilots would be bringing ships, say,  
22 to Vancouver and the movement would be outwards from  
23 New Westminster rather than inwards, the other way.  
24 It would have to be done gradually, but I think that  
25 the recommendation has a great deal of merit.

26 THE CHAIRMAN: The Pacific Coast  
27 Terminal was advocating the overlapping of district  
28 limits, so far as the New Westminster pilots are  
29 concerned, so that they could bring their ships into  
30 Vancouver Harbour. But it would be only one-way for





1 the New Westminster pilots, because the others would  
2 need knowledge of the Fraser River, which they do not  
3 have.

4 MR. BIRD: Well, of course, Pacific  
5 Coast Terminal said the New Westminster Pilotage  
6 District should be merged with the British Columbia  
7 District, and administered as a central authority.  
8 I did not hear their evidence so I do not know.

9 THE CHAIRMAN: They qualified that.  
10 They said the overlapping of district limits to  
11 Vancouver as a terminal for New Westminster, because  
12 about 30% of the traffic is coming from Vancouver  
13 or going to Vancouver.

14 MR. BIRD: Yes. Well, that sounds  
15 very sensible. That is where the saving would be  
16 effected.

17 In the third recommendation, that the  
18 Secretary of the New Westminster Pilotage Authority  
19 be maintained in his present duties; "Of course, that  
20 would be a matter for the committee in charge of the  
21 district, if it was appropriate that that should be  
22 done. Well, that is certainly something that should  
23 be considered by them.

24 I believe, if I understood Mr. Legg  
25 correctly, that his feeling was that a single  
26 federal authority be set up to take care of the Fraser  
27 River. I would not agree with that.

28 Actually, we are concerned with  
29 pilotage matters, and I had better make this point  
30 now. This pilotage commission should be, in my sub-







1 mission, dealing only with pilotage matters not any-  
2 thing else, and I rather gather from Mr. Legg that  
3 he thought there would be other things included,  
4 such as the operation of bridges.

5 There is one thing I did not add,  
6 my lord, and that was that with respect to the establish-  
7 ment of resident pilots at Prince Rupert, the  
8 Chamber of Shipping and the Aluminum Company believe  
9 that that would be desirable and that it would  
10 reduce costs.

11 COMMISSIONER SMITH: In that connection,  
12 Mr. Bird, my recollection is that Captain Eddy raised  
13 a point against that. I have forgotten the exact  
14 reasons. It had something to do with the boundary.

15 MR. BIRD: Something to do with which?

16 COMMISSIONER SMITH: With the boundary  
17 that would have to be established between the two  
18 areas. But, in any event, without mentioning the  
19 detail of his opposition, which I have here, he  
20 was opposed to that idea of a separate pilotage district  
21 in Prince Rupert.

22 MR. BIRD: A separate pilotage district?

23 COMMISSIONER SMITH: Yes.

24 MR. BIRD: Oh, yes. Well, I was  
25 not suggesting that.

26 COMMISSIONER SMITH: Oh, I am sorry;  
27 I misunderstood you.

28 MR. BIRD: Oh, no. I think there  
29 should be one District. My point was that a resident  
30 pilot should be provided at Prince Rupert. In other





1 words, one or more pilots should be living at  
2 Prince Rupert, not that there should be any change  
3 in the District. How that might be accomplished,  
4 I do not know. That, again, would be up to the local  
5 committee. If there were no pilots who actually  
6 lived in the Prince Rupert area, then it might be  
7 considered feasible by some means to rotate the  
8 pilots -- having them remain up there for a couple  
9 of months.

10 THE CHAIRMAN: The objection at the  
11 time was one of finance, because it would not be  
12 self-supporting. Captain Eddy gave evidence to that  
13 showing, in effect, that other pilots would be  
14 subsidizing that area. To that, the Prince Rupert  
15 Chamber of Commerce came with a prediction saying  
16 that next year and the year after the traffic is  
17 going to double and treble, and they have statistics  
18 to the effect that this is true.

19 MR. BIRD: Yes. Of course, we must  
20 bear in mind that this point that the pilots made  
21 that they should be self-supporting; with deference  
22 to them, I think there could be no substance in it.

23 THE CHAIRMAN: In any event, I do  
24 not think even that now, because the traffic has  
25 tripled since 1962 when we were there.

26 MR. BIRD: Yes. It may not arise, but  
27 of course if we get down to this fixed remuneration  
28 it does not matter.

29 THE CHAIRMAN: That was the only  
30 objection the pilots had.





1 MR. BIRD: Yes.

2 My lord and Commissioners, I think  
3 that that concludes the submissions that I have. I  
4 regret that in order to shorten matters up they may  
5 not have been as clearly stated as possible, but  
6 they appear in the briefs and I think that the tran-  
7 script will show the references reasonably clearly.  
8 I believe that Commissioner Smith had some questions  
9 that he asked.

10 COMMISSIONER SMITH: Yes, Mr. Bird.

11 At the opening of your address you  
12 referred to a tri-parte association of the authority  
13 and the shipping and the pilots with regard to certain  
14 aspects of the pilotage operations.

15 I would like, if I can, before the  
16 Commission ceases to function, to find out apart from  
17 The Canada Shipping Act, which gives an official  
18 description of a pilot -- and there are some other  
19 court cases and there may be some other places where  
20 the official description or designation of a pilot  
21 is made very clear. The reason I bring this up is  
22 to perhaps see if you can be helpful in this connection.

23 In the United States there has been  
24 an exhibit filed with the Commission, Exhibit 1296,  
25 and it is headed "Decision of the National <sup>Labour</sup> Relations  
26 Board," in which the Board was directed by the  
27 District Court of Appeals from the District of Columbia  
28 to determine whether the following pilots were employees  
29 or independent contractors under the United States  
30 Labour Legislation. The Board found -- that is, the







1 National Labour Relations Board found, that they were  
2 independent contractors under the United States  
3 Labour Legislation. In one of the footnotes to the  
4 Board's decision, the following is noted:

5 "Congress broadly designated as employees  
6 persons who worked for wages or salaries  
7 under direct supervision and as independ-  
8 ent contractors persons who undertook  
9 to do a job for a price, decide how the  
10 work will be done, usually hire others  
11 to do the work, and depend for their  
12 income not upon wages but upon the  
13 difference between what they pay for  
14 goods, materials and labour and what  
15 they receive for the end result -- that  
16 is, from profit."

17 Have you any knowledge of any kind of  
18 a description of the status of a pilot in this country  
19 that would help me at least to determine what his  
20 exact status is?

21 MR. BIRD: No, I have not, Commissioner  
22 Smith -- none that I can call to mind. I was  
23 listening to what you said from this finding and  
24 I do not thinking that our pilots are either fish  
25 or fowl in terms of what has been read, because I  
26 do not think they are independent contractors within  
27 that definition, and they are certainly not servants.

28 Of course, if the Commission should  
29 see fit to recommend that a Board of Pilotage  
30 Commissioners be set up, the pilots might be termed





1 servants of that Board. Of course, adequate safe-  
2 guards would have to be made by the Federal Govern-  
3 ment, because I do not suppose that the Government  
4 would be interested in acquiring any more servants  
5 than they presently have and they probably would  
6 become alarmed at suggestions of liabilities which  
7 they might be required to or they might have to assume  
8 by reason of being held to be an employer of the  
CC2 9 pilots. But that could be quite easily dealt with.

10 But I am not so sure that if the  
11 Commission should decide to set up such an organization  
12 then whether the pilots are servants or independent  
13 contractors or what, would not appear to be of too  
14 great significance in my view. But I have not  
15 really given very much consideration to the problem.  
16 But I wonder whether it would be of very great  
17 significance. But there could be legislation to  
18 determine their category.

19 I do not think I can be of much more  
20 assistance to you than that, Commissioner Smith.

21 COMMISSIONER SMITH: What would your  
22 opinion be about the establishment of a Board of  
23 Pilotage Commissioners under a Statute, repealing  
24 everything that exists today in The Canada Shipping  
25 Act, and all other Federal enactments -- a Pilotage  
26 Board with complete autonomy?

27 When I say "complete," that is not  
28 the right way to say it.

29 MR. BIRD: Responsible to Parliament?  
30





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COMMISSIONER SMITH: I was going to

2 follow that up by saying that this is complete  
3 except that there would be appeals by shipping and  
4 appeals by anybody interested in the public good,  
5 and also the presentation of an annual budget to  
6 Parliament -- not to the Minister nor to the Governor-  
7 in-Council, but to Parliament -- an annual report to  
8 Parliament and, of course, their estimates. Money  
9 would have to be voted by Parliament to carry on the  
10 operations. Their tariff decisions and regulations  
11 would also be appealable to some other body such  
12 as the Board of Transport Commissioners, which are  
13 the freight-fixing experts of the nation, with some  
14 kind of other set-up to which appeals from the  
15 Board's decisions and regulations on the discipline  
16 of pilots, and other matters that were thought to  
17 be in their interests, could be taken.

18 What would your opinion be of a set-up  
19 like that?

20 MR. BIRD: I would support it, Mr.  
21 Commissioner. I think that is the way it should  
22 be. In fact, as I read the brief of the Shipping  
23 Federation, that is what I feel they have substantially  
24 recommended. I think it should be an autonomous  
25 body, and I think it should be responsible to  
26 Parliament.

27 COMMISSIONER SMITH: Responsible to  
28 Parliament and not to the Minister or the Governor-  
29 in-Council?

30 MR. BIRD: Yes.







1 COMMISSIONER SMITH: That is, I think,  
2 the difference between the cases I mentioned, and  
3 their brief.

4 MR. BIRD: I have not read their brief.  
5 I just took the recommendations. However, they may  
6 have set it forth. I would support what you have  
7 just described with these safeguards -- I think this  
8 was the first part of your proposal -- that we should  
9 scrap everything and start afresh and really branch  
10 out and provide something that is new without relying  
11 on what might have been done in England or on  
12 what might have been done in the United States.  
13 Of course, it is all very well for me to say this,  
14 I suppose, because I shall not have anything to do  
15 with it, but a bold approach is desirable, I think,  
16 even though you may find you have to change a lot  
17 of the previous methods because undoubtedly great  
18 changes are going to have to be made.

19 COMMISSIONER SMITH: Do you think that  
20 that kind of a set-up -- this is, as I said when I  
21 asked the question before, exploratory so far as I  
22 am concerned. I do not know whether I am in favour  
23 or it or against it. I have not yet made up my  
24 mind, and I will not make up my mind for weeks or,  
25 perhaps, for months, but I want to consider it.  
26 We have to explore all these avenues, and this is  
27 one that might have to be investigated.

28 Do you think that that would be fair  
29 to all concerned? Would it be fair to the pilots?  
30 Would it be fair to shipping? Would it be fair to





1 the public interest? And, perhaps more important  
2 than anything else, would it provide a completely  
3 satisfactory formula for the successful operation of  
4 pilotage all over the nation?

5 MR. BIRD: Certainly the easiest way  
6 to accomplish that objective would be to start  
7 afresh, presumably.

8 COMMISSIONER SMITH: Repeal everything?

9 MR. BIRD: Yes, and then decide what  
10 you --- of course, you will probably find it advisable  
11 and necessary to use a lot of the things that are  
12 presently in force in the make-up of the overall  
13 picture, but when the time comes you would at least  
14 know where you were. You would have scrapped every-  
15 thing, and would be able to look at the enabling  
16 legislation and say: "Well, now, this is it; we  
17 know that everything else has been done away with,"  
18 whereas if you keep bits and pieces here and there,  
19 you would have more or less the same situation that  
20 we had under the old Canada Shipping Act in 1926 and  
21 1927, and which was just a mess, as you will recall,  
22 I am sure. It just brought trouble for everybody.  
23 It was a lawyer's dream, especially when his clients  
24 were accused of not complying with certain regul-  
25 ations under the Act.

26 That is my off-the-cuff view, and  
27 certainly it would be, from my very limited knowledge  
28 of the whole field, the way I would prefer to approach  
29 it myself.

30 COMMISSIONER SMITH: Thank you.





1 MR. BIRD: Were there any other  
2 matters, my lord?

DD2 3 THE CHAIRMAN: No, thank you.

4 MR. LANGLOIS: My lord, I would like  
5 to make some comments upon the submissions just  
6 made by my learned friend, Mr. Bird. I do not think  
7 he was in the courtroom when counsel for the Shipping  
8 Federation, Mr. Brisset, last Friday and Saturday  
9 explained the recommendations numbered one and two  
10 in the original brief of the Shipping Federation.  
11 May I be permitted at this stage to ask Mr. Bird if  
12 he is prepared to go as far as Mr. Brisset did in  
13 recommending the composition of what he called the  
14 Central Board of Pilotage Commissioners, the advisory  
15 committee, and the pilotage local authorities?

16 Mr. Brisset's recommendations were,  
17 I submit, my lord, quite a substantial departure  
18 from the original recommendations as they were  
19 contained in the Shipping Federation's brief.  
20 First, with respect to the Central Board of Pilotage  
21 Commissioners, he suggested that this Board should  
22 be composed of a chairman who would be a man of  
23 experience in business -- I think he mentioned trans-  
24 portation; I am trying to find my notes on the subject.  
25 Yes, the chairman should be a man of experience  
26 in shipping or transportation -- those were the  
27 words he used -- and one member should have legal  
28 training, and there should be one member with train-  
29 ing as an accountant.

30 In addition to the Central Board, he







1 recommended there be set up an advisory committee  
2 composed of a member representing the Department of  
3 Trade and Commerce, a member representing the Seaway  
4 Authority, a member representing the Department of  
5 Transport, a member representing the National Harbours  
6 Board and, finally, a member representing the Treas-  
7 ury Board.

8           Then, instead of local committees, as  
9 originally suggested, he recommended that in some  
10 cases -- for example, in Montreal -- that the pilot-  
11 age Authority should be the National Harbours Board  
12 administration. For the Seaway, and even as far as  
13 the Welland Canal, he suggested that the Seaway  
14 Authority should be the local pilotage authority.

15           In the District of Quebec he suggested  
16 it should be composed of a representative of the  
17 local port authorities, the marine agent of the  
18 Department of Transport, and so on. He suggested  
19 this should be followed across the board as far as  
20 possible.

21           I wonder if my learned friend would  
22 be prepared to go as far as counsel for the  
23 Shipping Federation did in this regard.

24           MR. BIRD: Mr. Chairman and Mr.  
25 Langlois, I do not intend to go that far. I profess  
26 to have no knowledge of the situation in Eastern  
27 Canada, and I can take no position.

28           MR. LANGLOIS: Thank you.

29           MR. BIRD: My lord, I wish to thank  
30 your lordship and the Commissioners for your patient





1 and considerate attention to my submission.

2 THE CHAIRMAN: Thank you, Mr. Bird.

3 Yes, Mr. Hunter?

4 MR. W.T. HUNTER (Counsel, the New  
5 Westminster Harbour Commissioners): My lord and  
6 Mr. Commissioners, I am representing the New Westminster  
7 Harbour Commissioners. I have prepared a final  
8 submission of which I have filed the necessary copies  
9 with the Secretary. I believe that he would like  
10 to have it marked as an exhibit.

11 THE CHAIRMAN: Yes.

12 THE SECRETARY: My lord, may I suggest  
13 that the number given to this brief be 1435.

14  
15 --- EXHIBIT NO. 1435: Final submission of the New  
16 Westminster Harbour Commissioners.

17 MR. LANGLOIS: Is there a copy of  
18 this submission available?

19 MR. HUNTER: I sent 15 copies down,  
20 and I have only one or two extra. Mr. Langlois can  
21 have this one.

22 THE CHAIRMAN: Have you received those  
23 copies?

24 THE SECRETARY: Yes, my lord, we have  
25 received 15 copies, all of which have been distributed.

26 MR. HUNTER: My lord, I am sorry for  
27 not bringing more down here with me. However, I  
28 do have one for Mr. Langlois.

29 My lord, I propose to go over this  
30 submission, pointing out the pertinent facts, as I





1 understand them, as they will be found in the record.  
2 Much of it has been covered by my learned friends,  
3 Mr. Legg and Mr. Bird, so I shall endeavour to shorten  
4 my remarks down considerably.

5 As a result of the hearings held before  
6 the Royal Commission on Pilotage at New Westminster  
7 on the 25th to the 29th days of March, 1963, we  
8 make our final submissions, as follows:

9 (a) To show that the evidence submitted  
10 to the Royal Commission establishes the necessity  
11 for economic reasons for conventional ships to transit  
12 the Westminster Railway Bridge at all times and  
13 ships with bridge-aft to transit the bridge during  
14 the hours of daylight.

15 As has been mentioned, the restrictions  
16 imposed by the pilots of the New Westminster Pilotage  
17 District in April of 1961, which are set out in  
18 Exhibit 160, whereby the pilots refused to take  
19 bridge-aft ships exceeding 375 feet in length through  
20 the Westminster Railway Bridge at any time or  
21 conventional ships through the bridge at night has  
22 had a very adverse effect on industry located upstream  
23 from the bridge. It has hampered the expansion of  
24 new industry into the area, and it has hampered the  
25 development of the port in general.

DD3 26 Mr. Legg this morning produced the  
27 charts -- these are the two charts that are contained  
28 at page 4 of the New Westminster Harbour Commissioners'  
29 brief which is Exhibit 156, and which were also  
30 Exhibit 1 to the brief of Crown Zellerbach Building







1 Materials Limited, Exhibit 165, and they show a  
2 very considerable decrease up to 1962. The figures  
3 that Mr. Legg produced this morning for 1963 and  
4 1964 showed a very alarming decrease in the past  
5 few years on direct ship loadings of lumber from  
6 Crown Zellerbach at Fraser Mills, and also showed  
7 quite an increase in scow loadings. I do not think  
8 I need emphasize that much more, because Mr. Legg  
9 dealt with it very thoroughly.

10 I would point out that a large per-  
11 centage of new ships being built are bridge-aft  
12 ships. There is a letter from Sir R. Robner and  
13 Company which can be found in Volume 14, page 1765  
14 at line 12, and there is also the evidence of  
15 Captain Draney, a tugboat master working for Crown  
16 Zellerbach, and called by the counsel for the pilots  
17 of the New Westminster Pilotage District, as to the  
18 lessening of deep-sea shipping and the increased  
19 use of scowing from Fraser Mills and Crown Zeller-  
20 bach. They said it was due to the trend towards  
21 bridge-aft vessels and because of restrictions on  
22 taking bridge-aft ships through the bridge. This is  
23 at page 1868 of Volume 14.

24 Mr. Forrester, the general manager  
25 of Seaboard Shipping Company Limited, stated that  
26 the trend is to bridge-aft ships for ease of loading  
27 and discharging and enlarging of cargo capacity.  
28 This evidence can be found in Volume 15, page 1942  
29 at lines 14 to 21. He also pointed out that  
30 because of fewer conventional ships it is difficult





1 to find ships to go up to Fraser Mills, thus causing  
2 increased costs for scowage. This evidence can be  
DD<sup>4</sup> 3 found in Volume 15 at page 1943. As Mr. Legg mentioned  
4 this morning, Mr. Matheson gave evidence as to the  
5 increased costs, and Mr. Legg dealt with that in  
6 that addendum that was filed as Exhibit 165-B.

7 There is also the fact that because  
8 of the bridge conventional ships are tied up for  
9 an hour or much longer on occasions to catch an ebb  
10 tide going upstream, and a flood tide going downstream.  
11 This evidence was given by Captain Gillie, and it  
12 can be found in Volume 12 at page 1553. This is  
13 also costly because it throws an extra added expense  
14 on either the shipper or the carrier as a result  
15 of the delay.

16 To sum up with respect to this point,  
17 Crown Zellerbach Building Materials Limited, which  
18 has two berths at its dock at its mill upstream from  
19 the Westminster Railway Bridge, commonly known as  
20 Fraser Mills, is unable to use its dock to the best  
21 advantage because of the restrictions on bridge-aft  
22 ships being unable to pass through the bridge.

23 Mr. Legg pointed out that they are  
24 only using it to 70% of its capacity.

25 The additional cost of scowage and  
26 the fact that bridge-aft ships are restricted from  
27 going up to Fraser Mills causes direct added cost  
28 to their operation, and handicaps the company as  
29 to the markets to which it can sell. This evidence  
30 was mentioned by Mr. Legg this morning, and it was





1 given by Mr. Matheson and can be found in Volume 15  
2 at page 1929 and page 1933.

3 We would further submit that this  
4 knowledge has had an adverse effect on new industries  
5 which may be considering developing upstream from  
6 the railway bridge, and until such time as the swing-  
7 span is replaced with a lift-span it is unlikely that  
8 any further major developments will take place up-  
9 stream from the railway bridge, thus depriving the  
10 upstream area of its heritage.

11 I believe that Mr. Smith this morning  
12 queried Mr. Legg as to whether he was aware of  
13 whether there were any additional industrial areas  
14 upstream from the bridge. I cannot give you any  
15 definite examples, but I know personally that there  
16 is one industrial complex that is being developed  
17 upstream from the bridge which has good docking  
18 facilities. I queried Captain Gillie at lunchtime,  
19 and he told me that in this one particular area there  
20 is a depth of 28 feet. I cannot say it is going to  
21 be developed, but it is being developed as an  
22 industrial complex, and you heard a discussion about  
23 dock facilities being put in. However, there is  
24 sufficient depth there if it was easier to get  
25 ships up.

26 That is on the north side of the  
27 river. On the south side there is the Gypsum plant,  
28 and ships that bring in oil for Dominion Tar &  
29 Chemical dock there. There are industrial complexes  
30 in that bay, and it is the feeling of the New Westminster







1 Harbour Commissioners that if the swing-span is  
2 replaced by a lift-span the whole area would open  
3 up.

4 I might also say that within the  
5 past two or three months the Advisory Committee of  
6 the New Westminster Harbour Board, which comprises  
7 representatives from about eight of the surrounding  
8 municipalities, including Surrey in the District  
9 of Coquitlam, which is upstream, and the Municipality  
10 of Fraser Mills, which is upstream -- these are  
11 all in a basin above the river, and they are members  
12 of this Committee -- held a meeting that was instigated  
13 mainly by the Municipality of Surrey, and that  
14 meeting passed a resolution requesting the Depart-  
15 ment of Transport to do something with the bridge.  
16 Copies of these letters were sent to the various  
17 authorities. I mention this to point up the fact  
18 that there is a desire to open up that part of the  
19 river above the bridge. So, it is obvious that the  
20 bridge is hindering the economic development of the  
21 port which, of course, goes quite a distance up.

22 I might say in addition that for  
23 the first time in its history this Port had more  
24 than 600 ships in during the year. This indicates  
25 that the Port is developing, but it could develop  
26 a lot more if the bridge were replaced.

27 The second point with which I wish  
28 to deal is that the Westminster Railway Bridge is  
29 a hazard to shipping, and should be replaced by a  
30 lift-span. I think this has been canvassed very





1 thoroughly, but if you will bear with me I should  
2 like to bring out two or three points.

3 As we are aware, the Westminster  
4 Railway Bridge was opened in 1904, and it had a  
5 centre swing-span. There was a clearance between the  
6 swing-span pier and the north and south piers of  
7 approximately 170 feet -- that is, 170 feet in  
8 each direction. In 1934 when there was talk of  
9 building the Pattullo bridge, there was a hearing  
10 held in the Council Chamber of the New Westminster  
DD5 11 City Hall regarding this traffic bridge, and how  
12 it would affect navigation. A transcript of this  
13 Inquiry is available through the Department of  
14 Public Works. The new traffic bridge, to be known  
15 at the Pattullo bridge, was approved under The  
16 Navigable Waters Protection Act by Privy Council  
17 Order P.C. 153, dated January 24th, 1936, and which  
18 is filed as Exhibit 164.

19 It was agreed at that time that the  
20 New Westminster Railway Bridge was a very serious  
21 navigational hazard. Captain Clayton gave evidence  
22 to this effect which can be found in Volume 14  
23 at page 1802. It is a serious navigational hazard  
24 because of the narrow opening and the closeness of  
25 the piers of the Pattullo Bridge to the piers of  
26 the Westminster Railway Bridge, resulting in cross-  
27 currents. This was recognized in Order-in-Council,  
28 P.C. 153 of 1936 -- this is Exhibit 164 -- where on  
29 page 3, paragraph 13, the chief engineer of the  
30 Department of Public Works reported that if it was





1 not possible to build the piers of the new structure  
2 or enlarge the piers of the present structure so  
3 that they would immediately adjoin, the movable span  
4 in the existing bridge should be taken out and should  
5 be replaced by a vertical lift-span. So, even as  
6 early as 1936 it was felt that it would create a  
7 hazard.

8 Then, in addition the Order-in-Council  
9 provided that the applicant would undertake to  
10 instal in the present bridge, in place of the present  
11 horizontal swing-span, a vertical lift-span of not  
12 less than 250 feet horizontal clearance and of not  
13 less than 145 feet vertical clearance above high  
14 water freshet level, the whole at his cost and to the  
15 satisfaction of the Minister of Public Works of  
16 Canada, provided, however, that, as an alternative,  
17 on completion of the new bridge, the applicant would  
18 undertake to remove from the existing bridge the  
19 upper portion now used for highway traffic, at its  
20 own cost and expense, without avoidable interference  
21 with railway traffic and without weakening the  
22 said bridge, the whole to be at the satisfaction of  
23 the Minister of Public Works of Canada, and there-  
24 after to transfer title in the bridge to the Minister.  
25 It was transferred to the Minister, or to His  
26 Majesty in the right of the Dominion in 1938.  
27 That will be found in paragraph 10 on page 9 of  
28 the Order-in-Council.

29 Now, the Harbour Board takes the  
30 position that the entire problem of the hazard







1 created by the swing-span could have been solved,  
2 and can still be rectified by the implementation  
3 of Order-in-Council No. 153 of 1956, which would  
4 result in the provision of the necessary clearance  
5 which the pilots desire.

6           There was some question, I believe  
7 again by Mr. Smith, as to what steps had been taken  
8 with respect to this. Approximately in the year  
9 1950 -- this was not in evidence, but I think I  
10 can answer this -- the New Westminster Chamber of  
11 Commerce, headed by its then president, Mr. Chris.  
12 Brown, and about 20 members, came down to Ottawa at  
13 their own expense to endeavour to have, firstly, the  
14 swing-span replaced by a lift-span, and, secondly,  
15 to try to increase the depth of the river by dredg-  
16 ing.

17           Then, in 1961 the Commissioners  
18 filed a brief. This was given in evidence by  
19 Captain Clayton, and his evidence in respect to it  
20 can be found in Volume 14 at page 1772. The brief  
21 is filed as Exhibit 181. Perhaps I can read this  
22 one sentence from page 3. They speak of the Order-  
23 in-Council and the public hearing, and they then  
24 say:

25           "However, it is important to realize  
26 that throughout both of these documents,  
27 there is a very definite implied intent,  
28 that, should the combined bridges  
29 be found to create a greater hazard  
30 to navigation than the presently





1 "existing bridge, then the swing-span  
2 of the existing bridge would be replaced  
3 by a lift-span . . . "

4 So, I can assure you, Mr. Smith, that numerous  
5 representations have been made to endeavour to have  
6 the situation rectified, and the hazard removed.

7 COMMISSIONER SMITH: What was the  
8 reaction of the authorities in Ottawa to the  
9 representations made by that Brown Committee?

10 MR. HUNTER: I understand they were  
11 very favourably received, but nothing was done --  
12 or, at least, they appeared to be favourably received;  
13 let me put it in that way.

14 In March of 1961 the Commissioners  
15 obtained a report from Colonel Swan, which is  
16 filed as Exhibit 182. So, again, the Commissioners  
17 have been working on this throughout a number of  
18 years. Colonel Swan estimated that the cost of  
19 replacing the swing-span with a lift-span was slightly  
20 less than \$2 million.

21 -

22 -





/rps 1 As Mr. Legg mentioned this morning  
2 and as I have stated, he confirmed this down here  
3 in the hearing in September. He was cross-examined  
4 on the cost. He gave evidence that he had the  
5 Dominion Bridge inspect it and that it had a life-  
6 expectancy of somewhere from 30 to 40 years and then  
7 Mr. Legg filed questions in the form of interrogatories.  
8 I would like to point out on Exhibit 1171, in the  
9 appendix to that exhibit, it says there was a trust  
10 fund set up from year to year to look after repairs  
11 to the bridge, and the last information I had been  
12 able to find out as to what was in that, in answer  
13 to this question, showed in 1963, 1964 there was a  
14 trust fund balance of \$420,000, so that there was on  
15 hand approximately 20% of the cost of replacing  
16 the bridge.

17 Colonel Swan also gave evidence that  
18 he had worked on the -- he was the engineer on the  
19 Pattullo Bridge. He was familiar with the footings.  
20 He has constructed numerous bridges in the area.  
21 This again was not questioned at all.

22 I understand Mr. Legg dealt with his  
23 examination of the Department of Transport and the  
24 Department of Public Works officials in September  
25 and it would appear from that examination that very  
26 little has been done with respect to revisions that  
27 have been made and there has been really no serious  
28 effort to remedy the problem by the departments  
29 concerned.

30 This is not a criticism of the Department,







1 but it is a fact and we feel that this should be  
2 taken into consideration in your deliberations that  
3 this has been a problem for a long time.

4 There was one answer Mr. Legg stated,  
5 in reply to a question in which he was asked as to  
6 why nothing has been done. He was told that at the  
7 hearings down here in December, 1962, certain details  
8 of traffic were to be supplied by the Harbour Board.

9 I inquired of this with the Harbour  
10 Board officials, and they have no record of any  
11 reply having been made. There was a change of  
12 port managers at that time. In that particular era,  
13 just about then, Captain Clayton retired and Captain  
14 Kavanaugh was appointed. Both of them were under the  
15 impression replies had been made, and they have  
16 no record of it.

17 In any event, I would submit that  
18 through the Department of Transport officials, the  
19 information was available anyway; but in any event  
20 very little has been done, and I would submit, my  
21 lord and Mr. Commissioners, that the evidence indic-  
22 ates the necessity for the conversion of the  
23 swing-span on the railway bridge to a lift-span.

24 This was recognized at the time the  
25 Pattullo Bridge was built, and the engineering  
26 report confirmed that it could be done at a reason-  
27 able cost, and that certain of the monies are  
28 available.

29 I would, therefore, very earnestly  
30 request, on behalf of the Harbours Board that this





1 Commission deal with this matter, and we trust that  
2 the representations which various people from the West  
3 have made will have some weight.

4 I would just point out one final  
5 thing. Mr. Legg mentioned this this morning: Mr.  
6 Daly, in examination by Mr. Legg, in Volume 144  
7 at page 18531 stated that there was a query about  
8 whether any study had been made by the Department of  
9 Public Works. He said that . . . (reads) . . .  
10 very much in consideration, obviously."

11 So if I may suggest, my lord and  
12 Mr. Commissioners, they are looking for some direction  
13 from this Commission, and I trust that what we have  
14 to say will be of some benefit to you.

15 The third point I wish to deal with  
16 is that there is a need that all rules and regulations  
17 in regard to harbour navigation be promulgated through  
18 the New Westminster Harbour Commissioners, and that  
19 some sort of machinery be set up to deal with the  
20 differences in technical matters between the various  
21 parties. The point came up in evidence. The problem  
22 first came to a head on April 21st, 1961, when the  
23 Vancouver Chamber of Shipping requested a list of  
24 restrictions on navigation in the Fraser River. We  
25 forwarded to them revised Exhibit 160 which restricted  
26 transit of bridge-aft ships through the bridge, and  
27 the transit of bridge-aft ships at night, which was  
28 later modified. This was given in the evidence of  
29 Captain Warren at Volume 12, page 1448 and 1449.

30 Captain Spier stated that the restrictions





1 on the regulations, Exhibit 160, were drafted by the  
2 Pilots' Committee. This is in Volume 11, page 1403.

3 Mr. Warren gave evidence about a  
4 meeting of the Pilotage Authority following the  
5 promulgation of the regulations. The Pilotage Author-  
6 ity was really dealing with the disposition of a  
7 dispute in the rewording of Section 9 of the Bylaws  
8 of the New Westminster Pilotage Authority. That was  
9 Exhibit 146. This was queried by all of the counsel.  
10 Volume 12, pages 1450 and 1451.

11 Mr. Middleton, who represented the  
12 Vancouver Chamber of Shipping gave evidence that the  
13 pilots, through the Pilotage Authority were making  
14 regulations without contacting other interested  
15 parties so that the Chamber of Shipping had no warning  
16 of any changes. This was Volume 14, page 1730 and  
17 1731.

18 THE CHAIRMAN: Although they said it  
19 was in evidence, the President of the Pilotage  
20 Commission was a member of the Shipping Federation also  
21 and, therefore, also on their Board.

22 MR. HUNTER: My lord, it was not the  
23 President. It was a member of the Pilotage Authority.

24 THE CHAIRMAN: I see.

25 MR. HUNTER: There was certainly some  
26 indication from somewhere, and the evidence was that  
27 the Pilotage Authority did not know of this.

28 THE CHAIRMAN: No, actually.

29 MR. HUNTER: Captain Clayton gave  
30 evidence that the New Westminster Harbour Commission







1 may make bylaws to regulate and control navigation  
2 within the Harbour and referred to Section 20(a) of  
3 The New Westminster Harbour Commissioners Act, which  
4 is Chapter 158, 3-4, George V, 1913.

5 Captain Clayton gave evidence it was  
6 the belief of the New Westminster Harbour Commission  
7 that any rules of regulations or recommendations in  
8 regard to harbour navigation should be made under  
9 its authority. This is Volume 14, page 1760.

10 He also stated, as soon as he became  
11 aware of the problem of the issuance of the restric-  
12 tions or regulations by the Pilotage Authority, he  
13 wrote on May 15th, 1961 to the Pilotage Authority  
14 (see Exhibit 180), advising them of this belief, and  
15 requesting the pilots' reasonings for imposing these  
16 restrictions.

17 A meeting was held on January 16th,  
18 1962, between the Harbour Commissioners, the Pilotage  
19 Authority and the Pilots' Committee, the minutes  
20 of which are on exhibit to the brief of the New  
21 Westminster Harbour Commissioners (Exhibit 166),  
22 following which the Pilotage Authority, by letter  
EE2 23 dated February 13th, 1962, agreed to relax those  
24 restrictions prohibiting piloting bridge-aft ships  
25 at night. This is Exhibit 166.

26 A letter from the Pilotage Authority  
27 to Captain Clayton, dated April 17th states, in  
28 effect, the Pilotage Authority are taking the advice  
29 of the pilots.

30 This was the evidence of Captain Clayton,





1 Volume 14, at page 1840.

2 At this time, your lordship, was this  
3 was being heard, if I may quote your lordship for  
4 a moment -- this was a reply by Captain Clayton:

5 "It would indicate that the Pilotage  
6 Commission are taking the advice of  
7 the pilots, as the letter so ably states.

8 "THE CHAIRMAN: As Mr. Warren says so  
9 in his testimony, I think he was  
10 asking advice from the pilots.

11 "MR. LANGLOIS: And quite properly, too.

12 "THE CHAIRMAN: And I questioned also  
13 the procedure of this, you know, dis-  
14 posing of questions without asking the  
15 other party to be there. You will  
16 recall that. They were taking a  
17 decision without letting everybody have  
18 his day in court."

19 This is exactly what happened, and  
20 we feel that some form of machinery must be set up,  
21 and we feel that it is apparent that where there are  
22 differences of opinion between the pilots and/or  
23 Pilotage Authority and other interested parties that  
24 there has to be some machinery set up, and in the  
25 Chamber of Shipping brief, Exhibit 168, page 3, it  
26 is stated:

27 "The Chamber of Shipping recommends  
28 that questions of this type should  
29 be discussed between the interested  
30 parties and investigated thoroughly  
before any arbitrary action is taken."





1 It is also the opinion of the New  
2 Westminster Harbour Commissioners (Page 8 of their  
3 brief which is Exhibit 166):

4 "As mentioned previously, we suggest  
5 that machinery should be set up whereby an  
6 unbiased investigation and study of matters  
7 of this nature could be instituted at local  
8 level for the purpose of finding a solution  
9 to any problem that may arise."

10 Captain Clayton was examined on these  
11 recommendations and his evidence is to be found in  
12 Volume 14 at pages 1795, 1816, 1817 and 1818.  
13 Very briefly, his recommendation is that the Canada  
14 Shipping Act be amended to set up a Committee to  
15 solve problems arising between pilots, harbour  
16 authorities and shipping interests. This is also the  
17 opinion of Captain Dennis, general manager of Pacific  
18 Coast Terminals (Volume 15 at pages 1884-1891.)

19 Now, I have not had an opportunity of  
20 discussing the recommendations which I have heard today  
21 with my clients, and the various proposals which have been  
22 outlined; but in discussions with them prior to coming  
23 down here -- just very general discussions on the  
24 mechanics -- Captain Clayton originally felt when he  
25 was port manager that this should be set up under the  
26 Shipping Act. I think the present commissioners feel  
27 that they should be the authority in the New Westminster  
28 harbour, with possibly a right of appeal from them;  
29 but that the pilots should possibly be under their wing  
30 rather than under the pilotage authority's wing, and







1 with a right of appeal; and they feel that anything  
2 affecting matters within the harbour should first be  
3 referred to them and then, if necessary, onward to  
4 a further body. They feel that there should be a body  
5 that could give fairly prompt action to matters that  
6 arise. They suggest that a pilotage commission be  
7 formed in Ottawa and that possibly the appeals from  
8 the local authority could come to that Commission; and  
9 if they were sitting permanently I would imagine it  
10 could quite quickly dispose of these matters. But  
11 we feel that possibly control of the pilots should  
12 come under the New Westminster Harbour Commissioners.

13 AS I say, we have not discussed this  
14 thoroughly -- what has been heard today -- but just  
15 in discussing before coming here this is one of the  
16 ideas they had.

17 There is only one further point and that  
18 is that the Harbour Commissioners decided to show that  
19 the evidence submitted to the Royal Commission  
20 establishes the necessity for some immediate action  
21 with respect to alleviating the regulations prohibiting  
22 the pilotage of bridge-aft ships through the Westminster  
23 Bridge pending the replacement of the present swing  
24 type bridge with a lift span type bridge.

25 This section is based on the belief by the  
26 New Westminster Harbour Commissioners that  
27 they acknowledge the present swing span of the  
28 Westminster Railway Bridge is a hazard to navigation of  
29 ships -- navigation of bridge-aft ships -- and that  
30 immediate steps must be taken to provide means or





1 arrange methods whereby bridge-aft ships might be  
2 piloted through the Westminister railway bridge pending  
3 the conversion of the present swing span type bridge  
4 to a lift span bridge at the earliest possible time.

5 Captain Clayton, in his memorandum to the  
6 pilots dated October 31, 1962, which is an exhibit to  
7 the Harbour Commissioner's brief, Exhibit 166, made  
8 four suggestions as to how bridge-aft ships could be  
9 piloted through the Westminister railway bridge:

- 10 (1) Specialization of one pilot on bridge-  
11 aft ships
- 12 (2) Tugs with lines ahead to give more  
13 maneuverability and control
- 14 (3) Illumination of the bridge
- 15 (4) Towing tugs.

16 To these were added other suggestions  
17 during the hearings, namely:

18 The use of a second pilot forward equipped with a  
19 walkie-talkie; the use of navigational aids to line  
20 up the ships proceeding through the bridge; navigational  
21 aids on the sand bars at the far side. These  
22 suggestions were put to Captain Gilley in Volume 12,  
23 pages 1560 to 1563, and he stated that they had tried  
24 to think of everything and among the seven had not  
25 been able to come up with any solution. If I may  
26 make an alagous comparison -- and I don't think there  
27 is anything wrong with this -- you may have a very  
28 eminent heart specialist in one city and they have a  
29 very peculiar type of heart condition and they call in  
30





1 a specialist from Washington. I think this is a  
2 problem. The Harbour Board knows that there is a  
3 problem. They respect the pilots as experts in their  
4 field, and we are not criticizing them, but we would  
5 suggest that possibly someone who has had some experience  
6 in this could be called in as a super-specialist.  
7 These men are experts and they feel this is a dangerous  
8 condition and we have to respect their opinion. At  
9 the same time we feel that possibly there must be some  
10 answer to this.

11 Captain Gilley in response to a further  
12 question as to whether he could take a bridge-aft  
13 ship through the bridge replied:  
14 "I know that I could, even if my vision was partly  
15 obscured by the type of ship."

16 Captain Ingalls had the suggestion in  
17 paragraph 2 put to him also, and in Volume 13, pages  
18 1709 to 1713 he stated in part that if conditions  
19 were perfect a ship could be towed through the railway  
20 bridge.

21 Captain Gosse gave evidence that walkie-  
22 talkies were very effective and they hoped to be able  
23 to equip each pilot in British Columbia with a set  
24 (Volume 13, page 1714).

25 Captain Clayton gave evidence in both  
26 his official capacity as port manager and in his  
27 professional capacity as a ship's master holding a  
28 sea-going foreign licence that the bridge was navigable  
29 and that it was practical to get bridge-aft ships  
30 through the bridge.







1 Captain Clayton further gave evidence  
2 in Volume 14, page 1824, that the New Westminster  
3 Harbour commissioners would be prepared to subsidize  
4 any proposition including the subsidy of a tug in order  
5 that bridge-aft ships could be taken through the  
6 bridge if the cost was warranted.

7 In conclusion it would appear that although  
8 it is the belief of the New Westminster Harbour  
9 Commissioners that the pilots are sincere in their  
10 beliefs that they are acting in good faith in refusing  
11 to pilot bridge-aft ships through the Westminster  
12 railway bridge, this refusal stems from only one near  
13 accident and that some positive steps must be taken  
14 to find a solution to the problem until such time as  
15 the swing span is replaced with a lift span.

16 You heard the evidence of Mr. Legg this  
17 morning -- part of his submission -- of the alarming  
18 decrease in the number of ships going up to the Fraser  
19 Mills.

20 When Captain Gosse was asked whether he  
21 could take the 745 foot long "Argyll" through the  
22 Second Narrows Bridge he said that they would ask for  
23 assistance and they came up with some suggestion  
24 (Volume 13, page 1723).

25 The New Westminster Harbour Commissioners  
26 suggest that if the pilots are unable to bring forth  
27 any suggestions as to how ships may be piloted through  
28 the Westminster railway bridge, expert advice be  
29 obtained through the Department of Transport and that  
30 to this end a committee of all interested parties be





1 formed to consider the problem and arrange for  
2 assistance and guidance from other ports or areas  
3 which have successfully met this problem or one similar  
4 to it; and we realize that in the event that the  
5 Commission does recommend that the swing span be  
6 replaced by a lift span, it is going to take some time,  
7 and we would respectfully suggest to the Commission,  
8 or recommend, that a committee be set up immediately to  
9 determine how such ships can be taken through the  
10 railway bridge.

11 In conclusion I feel that I can do no  
12 better than to reiterate the conclusion in the brief  
13 submitted by the New Westminster Harbour Commissioners,  
14 namely:

15 "This brief is submitted to the  
16 Royal Commission on Pilotage to enlist their  
17 assistance in the clarification of certain  
18 administrative problems in connection with  
19 pilotage which <sup>the</sup> harbour authority feels is  
20 of vital concern to the growth and development  
21 of the port.

22 No reflection on the basic capabilities  
23 or conduct of the pilots is either intended  
24 or implied. The New Westminster Harbour  
25 Commissioners approach this matter as a  
26 problem for which it is their responsibility  
27 to find a solution. In this spirit the  
28 New Westminster Harbour Commissioners  
29 strongly recommend the earnest consideration  
30 of this brief by the Royal Commission on





1 Pilotage, with the sincere desire that  
2 their deliberations may lead to such a  
3 solution."

4 That concludes the presentation of the  
5 brief for the New Westminster Harbour Commissioners.

6 My Lord, when Mr. Legge was down here  
7 he presented a brief on behalf of the New Westminster  
8 Chamber of Commerce in September, and I might just  
9 say two or three words in connection with that.

10 The New Westminster Chamber of Commerce,  
11 of which I happen to be on the executive, has nothing  
12 to do with this, but there is the Harbour Bureau of the  
13 New Westminster Chamber of Commerce which is a body  
14 with 475 members, and the Harbour Bureau looked into  
15 this matter also because it is of a great deal of  
16 concern to the New Westminster area, and we have  
17 members from Surrey and the other areas, and their  
18 submission, very briefly, is that they request that  
19 this Commission endeavour to do something, or make a  
20 recommendation that the swing span be replaced by a  
21 lifting span. That, very briefly, is their  
22 recommendation, and I would like to add that  
23 recommendation to the New Westminster Harbour  
24 Commissioners, which comes from a body of 475 business-  
25 men in the area; and it is their earnest belief that  
26 until the swing span is replaced with a lift span  
27 the development of the portion of the Fraser River  
28 above the railway bridge is going to be continuously  
29 hampered and slowed down.

30 If there are no questions I would like







1 to thank you, My Lord, very much and to thank your  
2 Lordship and the Commissioners for their very kind  
3 attention.

4 THE CHAIRMAN: We will adjourn for a  
5 few minutes.

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11 --- Recess  
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--- Following the recess:

MR. JACQUES: Your Honours, at this point I should like to file a brief of the Canadian Shipowners Association. It is Brief No. 55.

THE SECRETARY: This will be Exhibit No. 1436.

--- EXHIBIT NO. 1436: Brief of the Canadian Shipowners Association.

MR. JACQUES: My lord and members of the Commission: Mr. Allin, the President of the Association, is here with us today. He has participated in the preparation of the brief, along with Mr. Fisher whom we all know, having seen him at almost every place the Commission has sat.

Before turning the microphone over to Mr. Allin, I should like to mention that this is the first brief which refers the Commission to The Financial Administration Act. So far, the parties have mentioned Commissions, Commissioners, Boards and Agencies without specifying the type that they had in mind. The Canadian Shipowners Association has referred to a Crown corporation similar to those mentioned in Schedule "D" of The Financial Administration Act.

Now, by Section 76 of the Act, these corporations are, by interpretation, proprietary corporations, and the Governor-in-Council may add to





1 Schedule "D" any Crown corporation that is responsible  
2 for the management of lending or financial operations,  
3 or for the management of commercial and industrial  
4 operations involving the production of or dealing in  
5 goods and the supplying of services to the public, and  
6 is ordinarily required to conduct its operations with-  
7 out appropriations. I might say that these corpor-  
8 ations are not similar to the National Harbours Board,  
9 which is an agency corporation.

10 Broadly speaking, agency corporations  
11 are responsible for the management of trading or  
12 service operations on a quasi-commercial basis, or  
13 for the management of procurement, construction or  
14 disposal activities on behalf of Her Majesty in right  
15 of Canada.

16 The corporation proposed by the  
17 Canadian Shipowners Association would control and  
18 administer all pilotage in Canada. In other words,  
19 it would provide the services to the public, and the  
20 pilots would be employees or quasi-employees of the  
21 corporation. The dealings or negotiations with  
22 respect to rights or conditions of pilotage would  
23 take place between the corporation and the shipowners,  
24 the pilots having no part in those negotiations.

25 Having made these few remarks, I should  
26 like Mr. Allin to address the Commission. Mr. Allin  
27 has been the President of the Association for several  
28 years, and has been connected with the shipping  
29 business for well over 40 years.

30 MR. C.S. ALLIN (President, Canadian







1 Shipowners Association): My lord and Commissioners,  
2 I should, perhaps, explain that the Canadian  
3 Shipowners Association as the National Association is  
4 submitting no evidence in this brief. It is an  
5 association representing -- it was formed in 1953 to  
6 represent Canadian shipowners, and it recently  
7 enlarged its bylaws in order to include Canadian  
8 ship operators. We, the members of the Association,  
9 regard the organization as the one national organiz-  
10 ation representing the shipping industry in Canada.  
11 Most of our association members are, accordingly, also  
12 connected with the other shipping organizations in  
13 Canada, such as the Shipping Federation, and it was  
14 the feeling of the Board of Directors of the Canadian  
15 Shipowners Association that before submitting any  
16 brief to this Commission, we should see what other  
17 recommendations, suggestions and proposals had been  
18 submitted by the different organizations concerned  
19 with the operation of the ports and harbours, and the  
20 handling of ships in and out of those ports and  
21 harbours.

22 The Directors of the Association felt  
23 that the Commission might still be interested in the  
24 views and opinions of the Association, as a national  
25 association, on the organization and administration  
26 of pilotage services. It is the opinion of the  
27 Association that the national interest in pilotage  
28 services is paramount, and I should, perhaps, underline  
29 the word "national;" that this interest can only  
30





1 be satisfactorily served through an effective and  
2 autonomous method of government-sponsored provision  
3 and management of pilotage services, fully conscious  
4 of the interests of all those concerned in Canadian  
5 waterborne trade.

6           We have submitted certain recommendations.  
7 Reference to these was made when I was introduced to  
8 you, and it is not, perhaps, necessary for me to go  
9 through them in detail, as the brief has already  
10 been in your hands for some time. However, I do place  
11 myself at your disposal to answer any questions and  
12 to explain further any points that might arise out  
13 of the remarks that have been submitted to you. Prior  
14 to that I should like to express my grateful thanks  
15 for being permitted to appear, and to submit this  
16 brief to you.

17           THE CHAIRMAN: Thank you, Mr. Allin.

18           COMMISSIONER SMITH: Mr. Allin, I  
19 have read the nine or ten pages of this brief which  
20 provides an awful lot of food for thought. It is  
GG2 21 very succinctly prepared, and it will be very helpful  
22 to us, I am sure, in our exploration of the various  
23 angles of this terrific problem that we have on our  
24 hands.

25           At the bottom of the page of  
26 recommendations, you mention in paragraph C:

27           "Review the proposed revisions currently  
28 being considered by the United States  
29 Coast Guard in the Rules of the Road  
30 for inland waters to determine their





1 "acceptability and adoption in Canada."

2 Now, the thought ran through my mind

3 -- I know these are revisions of the rules of the  
4 United States Coast Guard and the rules-of-the-road  
5 for inland waters, but the thought seems to be  
6 somewhat prevalent -- and we have had some evidence  
7 and testimony given on it -- that if at all practicable  
8 international rules-of-the-road should be applied  
9 on the Great Lakes, the same as elsewhere on the  
10 oceans of the world. Do you agree with that?

11 MR. ALLIN: Yes, sir, that is a view  
12 to which we subscribe.

13 COMMISSIONER SMITH: At page 2 in the  
14 last nine lines you speak about the gross operating  
15 revenues of the companies for 1963 and mention this,  
16 that in the year 1963 the gross operating revenues  
17 of these companies totalled more than \$126 million  
18 of which over \$43 million was paid in charter hire,  
19 and over \$1 million in canal tolls and pilotage  
20 costs. Do you have a breakdown of that amount of  
21 \$1 million as between canal dues and pilotage costs?

22 MR. ALLIN: Mr. Fisher advises me that  
23 this is the manner in which the figures are quoted  
24 in the Dominion Bureau of Statistics publication  
25 from which the figures were taken.

26 COMMISSIONER SMITH: And is it broken  
27 down in that publication, do you know?

28 MR. ALLIN: No, it is not broken down  
29 beyond the statement we have made.

30 COMMISSIONER SMITH: Those are all the







1 questions I have to ask of Mr. Allin, Mr. Chairman.

2 COMMISSIONER RENWICK: Mr. Allin, at  
3 page 4, in paragraph 8 you say:

4 "It is the opinion of the Association  
5 that the national interest in pilotage  
6 services is paramount, and that this  
7 interest can only be satisfactorily  
8 served through an effective and auto-  
9 nomous method of government-sponsored  
10 provision and management of pilotage  
11 services, fully conscious of the interests  
12 of all of those concerned in Canadian  
13 waterborne trade."

14 I am looking for the paragraph in  
15 which you mention that one should be for the Pacific  
16 Coast and one -- yes, it is page 6 where, in paragraph  
17 13, you say:

18 "It is suggested that the Commission  
19 be composed of three persons. One should  
20 reside on the Pacific Coast, with  
21 responsibility for pilotage services  
22 in British Columbia coastal waters.  
23 Another should be a professional sailor  
24 with the highest available qualifications.  
25 The third member, the chairman and  
26 chief executive officer, should be  
27 a person with a demonstrated administra-  
28 tive ability and legal knowledge with  
29 a comprehensive understanding of the  
30 mechanics of the importance to Canada





1 "of its external and domestic water-  
2 borne trade."

3 I am not clear in my mind -- I might  
4 not have read this carefully enough, but would this  
5 be a sitting commission, or would these people be  
6 called together as occasion demanded?

7 MR. ALLIN: This would be the paramount,  
8 if I may use that word, or permanent overriding body.

9 COMMISSIONER RENWICK: And they would  
10 be domiciled in Ottawa?

11 MR. ALLIN: I beg your pardon, sir?

12 COMMISSIONER RENWICK: Would they  
13 be domiciled at some central point, such as Ottawa?

14 MR. ALLIN: Yes, sir, in Ottawa, I  
15 would say.

16 COMMISSIONER RENWICK: I am wondering  
17 about the expediency of these men having to get  
18 together from all over the country. There would be  
19 a lack of continuity, and so on, but this is the  
20 paramount body?

21 MR. ALLIN: Yes, and in paragraph 14  
22 we go on to enlarge on the operation of that permanent  
23 committee.

24 COMMISSIONER RENWICK: Yes, thank you.

25 THE CHAIRMAN: There is a second  
26 part of the recommendation B. With regard to the  
27 West Coast, and at the top of page 9 -- and it goes  
28 on at the top of page 9 of the brief to say:

29 "Realistic and economic methods are  
30 established for the employment and





1 "interchange of Canadian and American  
2 pilots on vessels transitting Pacific  
3 Coast waters between ports and areas  
4 of the two countries."

5 Do you mean the legal situation or the  
6 factual situation that exists now? Is that because  
7 legal problems are not settled, or because the present  
8 system is not working?

9 MR. FISHER: May I answer that, Mr.  
10 Chairman? That particular recommendation was  
11 drafted at the time the evidence was given on the  
12 West Coast, and as you indicated earlier today, a  
13 modus operandi has been worked out. However, that  
14 does not take away from the basic heart of the  
15 recommendation, which is still a matter which the  
16 Commission ---

17 THE CHAIRMAN: It is still a matter  
GG3 18 of contention?

19 MR. FISHER: Yes.

20 THE CHAIRMAN: But I was wondering  
21 whether you were talking there -- and this is  
22 because I could not see any development of it -- about  
23 vessels in transit from the United States to the  
24 United States through British Columbia waters --  
25 that is, from Washington to Alaska, for instance.

26 MR. FISHER: I appreciate that, but  
27 we did not go into that in depth. We knew there  
28 was a problem, and we just wanted to bring it to  
29 your attention.

30 THE CHAIRMAN: Thank you.







1 COMMISSIONER SMITH: There is only  
2 one point that arises out of that. The word "auto-  
3 nomous" is used in your brief. This means that it  
4 is something that is very special; it means it is  
5 self-governing and conforming to its own laws only;  
6 it is independent and not a mere form or state of  
7 some other organization. Now, if the exact shade  
8 of meaning is applied to the recommendation with  
9 respect to the word "autonomous," it becomes what  
10 I have stated -- a self-governing set-up which is  
11 completely independent, and which is not a form or  
12 state of any other organization. Do you mean that,  
13 or do you mean something less than that?

14 MR. FISHER: I think we mean something  
15 a little less than that which is implied by the use  
16 of the word "autonomous." By "autonomous" we mean  
17 they would have the greatest amount of allowable  
18 freedom to develop their policies, and so on. We  
19 feel that to satisfactorily operate a commission of  
20 this kind -- all government bodies, of course, have  
21 a court of appeal above them to which the public  
22 can go when they feel a government body or commission  
23 has exceeded its rights and prerogatives. This,  
24 in our view, should be Parliament, in this case.  
25 There are many ways and means by which the public  
26 interest can be protected. There is the simple  
27 technique of a question on the Order paper. There  
28 is the technique of going back every year for their  
29 appropriation, and going before a committee to which  
30 the pilots and the shipowners can make their complaints.





1 If, in the opinion of Parliament the body is not  
2 performing its duties properly, then it is a very  
3 simple matter for Parliament to change that body --  
4 that is, change the personnel; it does not neces-  
5 sarily need to change the form of the body. But,  
6 in the day-to-day operations and its ability to  
7 determine the day-to-day operations, it is a relat-  
8 ively autonomous body. This is the form of commission  
9 that we envisage in this recommendation.

10 COMMISSIONER RENWICK: May I ask  
11 another question, my lord? At page 3, paragraph  
12 6, reference is made to Canadian Government policy  
13 as being the dictating influence in the present  
14 system of having little or no Canadian registry with  
15 respect to our foreign shipping. Do you not agree  
16 that this is a matter of economics, rather than of  
17 government policy? I am referring, particularly,  
18 to the chartering of tramps and bulk cargo carriers.

19 MR. FISHER: You are asking me, sir,  
20 if I will agree that this is a matter of economics ---

21 COMMISSIONER RENWICK: Yes, rather  
22 than a matter of conforming strictly to government  
23 policy.

24 MR. FISHER: I would say that that  
25 is self-evident, because if Canadian ships could  
26 operate as cheaply we would be owning them.

27 COMMISSIONER RENWICK: But you say  
28 that we are doing it because government policy  
29 dictates it. The official report of the House of  
30 Commons debates of December 9th, 1949 says that it





1 is government policy, and you are confirming that  
2 and ignoring the impact of economics?

3 MR. FISHER: The point we drew out  
4 is that it is not government policy to encourage us.  
5 They say: "You can do it if you want to, but we  
6 are not going to encourage it." This is what Mr.  
7 St. Laurent said, in effect, and we have had to  
8 live with that. This has brought about the situation  
9 with which we live today, whereby we are primarily  
10 renters of ships, rather than owners. But, we feel  
11 we still have as great an interest in pilotage  
12 problems because even though we do not own the ships,  
13 we still have to pay for the service.

14 THE CHAIRMAN: Are there any other  
15 questions?

16 Thank you very much, Mr. Allin. We  
17 shall adjourn now until tomorrow morning at ten  
18 o'clock.

19

20 --- Whereupon the hearing was adjourned until  
21 ten o'clock a.m., Tuesday, the 12th day of  
January, 1965.

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